



## **North Devon Council**

Report Date: 7<sup>th</sup> March 2023

Topic: Introduction of a Draft Drugs Testing Policy for New and Existing Licensed Drivers

Report by: Katy Nicholls, Public Protection Manager

### **1. INTRODUCTION**

1.1. To seek the Licensing and Community Safety Committee's approval to consult upon a proposal to introduce a new Drug Testing Policy in connection with, firstly, the granting of licences to drive private hire and hackney carriages to persons who may have drug-related offences and, secondly, the detection of currently licensed drivers who may be using illegal drugs.

### **2. RECOMMENDATIONS**

2.1. That Licensing and Community Safety Committee considers the report and indicate their preferred draft policy from the two options below:

- Option 1 (Appendix A): The Drug testing policy covering new drivers with previous drug-related offences, licensed drivers who disclose at renewal a drug-related offence, and intelligence led testing of licensed drivers; or
- Option 2 (Appendix B): The drug testing policy which covers all of the above, but in addition routine sampling of a proposed 5-10% of licensed drivers per annum.

2.2. That Licensing and Community Safety Committee approve the Licensing Service to begin a formal consultation on the preferred draft drug testing policy.

2.3. Approve a six-week consultation exercise with the 'taxi and private hire trade', general public, and anybody or person with an interest in taxis and private hire drivers/vehicles.

2.4. Request proposed amendments to the policy resulting from the consultation and review process be presented to this Committee in a further report.

### **3. REASONS FOR RECOMMENDATIONS**

3.1. To ensure the Council's policies are regularly reviewed and kept up to date.

#### 4. REPORT

- 4.1. Approximately 1 in 11 adults aged 16-59 years (9.2%; approximately 3 million adults) and approximately 1 in 5 adults aged 16-24% (18.6 %; approximately 1.1 million adults) reported drug use in the year ending June 2022<sup>1</sup>.
- 4.2. Studies reported by the Road Safety Charity 'Brake' suggest that drug driving is a factor in more than 1 in 20 fatal crashes in the UK. They also suggest that drivers are twice the risk of fatal or serious injury crash when driving on cannabis (16 times when combined with alcohol); 2-10 times at risk of a fatal or serious injury crash when driving on cocaine or opiates, and 5-30 times at risk of a fatal or serious injury crash when driving on amphetamines.
- 4.3. During 2022 the Licensing Authority revoked the licences of three Licensed drivers following positive drug swipes undertaken by Police, which subsequently resulted in two convictions, and one individual on bail awaiting forensic examination results.
- 4.4. A specific drugs focussed newsletter was sent in January to the licensed trade to highlight the issue, this can be found at **Appendix C**.
- 4.5. Whilst the numbers of licensed taxi/private hire drivers who have been arrested or convicted for offences around illegal drugs is thankfully minimal when compared with the overall number of licensed drivers (256), it is a fact that occasionally drug driving allegations or convictions are brought to the attention of the Licensing Authority. A Policy which permits the Licensing Authority to test applicants and licensed drivers in clearly specified circumstances for the misuse of drugs, hopefully also acts as a deterrent to those considering taking illegal drugs, and/or encourages those who are currently taking illegal drugs to cease doing so because of the potential risk to their licence and livelihood, in addition to any possible criminal sanctions.
- 4.6. The Licensing Authority is under a duty to satisfy itself, before granting an application for a hackney carriage / private hire driver's licence, that an applicant is a fit and proper person to be granted a licence. Moreover, once granted a licence can be revoked (or not renewed) if "reasonable cause" exists to do so. On the grounds of public safety it would be completely unacceptable for a drug user to be granted a hackney carriage / private hire driver's licence, as they cannot reasonably be considered to be a fit and proper (safe and suitable), person to be granted a licence. Likewise, a licensed driver who takes illegal drugs presents a clear risk to public safety and ought therefore to have their fitness and propriety to hold a licence reviewed.

- 4.7. The 2022 drug related revocation cases outlined above has highlighted the need for a proportionate policy to reduce as far as practicably, the risk of drug users being granted a licence, and also to deter existing licensed drivers from taking drugs.
- 4.8. The Licensing Team is in discussion with several toxicology companies, with a view to nominating a supplier to provide specialist support, testing materials, and confirmation laboratory testing. The companies have been assessed by the Public Protection Manager and all maintain UKAS accreditation for their laboratory testing facilities. UKAS is the independent accreditation body recognised by the Government, and ensures testing procedures are in-line with internationally recognised standards.
- 4.9. The most appropriate and feasible testing process is by way of urine analysis. This will take place at the Council offices initially involving rapid screening tests for the most common illegal drugs, followed by laboratory confirmation testing only where positive screening tests are returned (thereby reducing laboratory testing costs).
- 4.10. A copy of a draft proposed drug testing policy covering new drivers with previous drug-related offences; licensed drivers who disclose at renewal a drug-related offence; and intelligence led testing of licensed drivers, is attached at **Appendix A**.
- 4.11. A copy of the proposed drug testing policy covering all of the above, but in addition routine sampling of a proposed 5-10% of licensed drivers per annum is attached at **Appendix B**.

## 5. RESOURCE IMPLICATIONS

- 5.1. The financial costs which would be incurred through the introduction of such a policy would in most situations be borne by the licensed driver or applicant for a licence. For example, where an applicant for a licence has previous convictions for drug related offences, they may be asked to submit a sample for drug testing prior to a Licensing and Community Safety Sub Committee determining their suitability for a licence, or where an existing driver is arrested or convicted of a drug related offence they may be required to undertake a drugs test (as already outlined in the North Devon Council Hackney Carriage and Private Hire Licensing Policy). However, there may be other scenarios where it would be appropriate for the Licensing Authority to incur these costs, for example where a drug testing requirement is imposed on a driver by a Licensing and Community Safety Sub Committee, or where the Licensing Authority requires a driver to submit to a drugs test as a result of an allegation of drug use. Costs incurred by the Licensing Authority through the approval of any new policy will however, be taken into account when calculating fees for taxi related licences in subsequent years.



## 6. EQUALITIES ASSESSMENT

6.1. The impact of the proposals is neutral. An Equality Impact Assessment has been undertaken.

## 7. ENVIRONMENTAL ASSESSMENT

7.1. An environmental assessment has been undertaken and revealed a neutral impact.

## 8. CONSTITUTIONAL CONTEXT

- 8.1. Article of Part 3 Annexe 1 paragraph:4b
- 8.2. Referred or delegated power?: delegated

## 9. STATEMENT OF CONFIDENTIALITY

9.1. This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 10. BACKGROUND PAPERS

10.1. The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

- [Office of National Statistics Drug Misuse in England and Wales: year ending June 2022<sup>1</sup>](#)
- North Devon Council Taxi and Private Hire Licensing Policy

## 11. STATEMENT OF INTERNAL ADVICE

11.1 The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Katy Nicholls, Public Protection Manager.