

REPORT TO: LICENSING & COMMUNITY SAFETY COMMITTEE

Date: 13th October 2020

TOPIC: HACKNEY CARRIAGE AND PRIVATE HIRE POLICY – THE STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS.

REPORT BY: LICENSING SERVICE LEAD

1 INTRODUCTION

- 1.1 The purpose of this report is to seek Licensing and Community Safety Committee ('LCSC') approval for the Licensing Service to begin a formal public consultation on North Devon Council's Hackney Carriage and Private Hire Licensing Policy (the 'policy'), (found at **Appendix A**) relating to the Department for Transport Taxi and Private Hire Vehicle Standards (the 'standards') found at **Appendix B**.

2 RECOMMENDATIONS

- 2.1 That LCSC considers the report and approves the proposed timescales, review and consultation processes for considering the measures and recommendations as outlined in the standards assessment document found in **Appendix C**.
- 2.2 Request proposed amendments to the policy resulting from the consultation and review process be presented to this Committee in further reports.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To ensure the Council's policies are regularly reviewed and kept up to date.
- 3.2 To increase the robustness of the Council's approach and procedures in respect of protecting children and vulnerable adults.
- 3.3 To meet the Department of Transport request of considering the measures contained within the standards document.

4 REPORT

- 4.1 North Devon Council (NDC) approved the policy and associated conditions of licence for the Hackney Carriage and Private Hire trades in August 2016.
- 4.2 In September and October 2017 a formal public consultation process took place to replace Appendix H of the policy with convictions guidelines based on a Local Government Association (LGA) template. Because of staff sickness it was not possible to

present the findings of the consultation process and the request to approve new convictions guidelines to the Licensing Committee.

- 4.3 In June 2018 the Executive agreed to amend the policy by approving interim measures regarding the requirement for hackney carriage and private hire driver applicants to have taken and passed the BTEC Intermediate Award in Transporting Passengers.
- 4.4 In November and December 2019 a formal public consultation process took place to replace Appendix H of the policy with all, none, or certain sections of the of the Institute of Licensing ‘Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades’. Because of staff sickness it was not possible to present the findings of the consultation process and the request to approve new convictions guidelines to the Licensing Committee”
- 4.5 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services.
- 4.6 Following consultation with trade, regulators and safety campaign groups, the Department for Transport on 20th July 2020 issued the document entitled “Statutory Taxi and Private Hire Vehicle Standards. The focus of these minimum standards is on protecting children and vulnerable adults however all passengers will benefit from the recommendations, which aim to better regulate the hackney carriage and private hire sector. To a large extent, consideration and implementation of the Standards replaces the need to consider taxi standards on a local basis.
- 4.7 This authority is expected to publish its consideration of the recommendations and measures in the standards. The Department of Transport will be monitoring all authorities and expects all the recommendations and measures to be implemented unless there is a compelling local reason not to.
- 4.8 An assessment has been made listing and categorising all the recommendations and measures and whether or not this council’s current policy meets them by indicating, fully meets (green), partially meets (amber) and does not meet (red).
- 4.9 A summary of the assessment document outlining the more significant measures and recommendations where an amber or red category is identified follows –

Department for Transport Standards Recommendations/measures and Paragraph number(s)	Current Council policy Category Red (does not meet) Amber (partially meets) Green (fully meets)	Proposed action and time scale (The outcome of all reviews and consultations will be reported back for consideration to the appropriate NDC committee)
1.3 & 2.1 & 2.8 The Department therefore expects these recommendations to be implemented unless there is	Amber The standards are a recent introduction and this council currently does not have all the recommendations and measures in place.	Consultations, reviews and research will have to take place with consideration of the recommendations and measures being made on a rolling programme by the

<p>a compelling local reason not to.</p> <p>In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.</p>		<p>appropriate NDC Committee(s).</p> <p>It is proposed to have a published decision on implementing each recommendation and measure by the end of December 2021</p>
<p>1.5</p> <p>Licensing authorities should have in place arrangements that reflect the importance of Safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the Working Together to Safeguard Children statutory guidance.</p>	<p>Amber</p> <p>There are NDC policies and procedures in place.</p>	<p>The policies and procedures will be reviewed internally against the Working Together to Safeguard Children statutory guidance. Any recommendations for amending the policies and documents will be in place by the end of March 2021.</p>
<p>2.7</p> <p>“Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.</p>	<p>Red</p> <p>The standards are a recent introduction.</p>	<p>NDC legal advice will be sought and in place on how to incorporate ‘having regard’ to the standards in formulating policy and decision by the end October 2020.</p>
<p>3.8 (Whistleblowing)</p> <p>Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.</p>	<p>Amber</p> <p>NDC has internal procedures in place.</p>	<p>The policy and procedures will be reviewed internally Any recommendations for amending the policies and documents will be in place by the end of March 2021.</p>

<p>3.14 (Changing licensing policy and requirements)</p> <p>Any changes in licensing requirements should be followed by a review of the licences already issued.</p>	<p>Red</p> <p>This is not current NDC policy.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to introduce this recommendation.</p>
<p>4.5 to 4.8 (The Disclosure and Barring update Service)</p> <p>Subscription to the update service and with an individual's consent allows licensing authorities to request large numbers of certificate status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously.</p>	<p>Red</p> <p>Subscription to the update service not mandatory. NDC did consult on this in 2019 with a view to introduction, this was postponed due to staff illness.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to introduce this recommendation of all licensed drivers subscribing to the DBS update service and allow NDC officers at any time to check the status of an individual certificate.</p>
<p>4.9 to 4.11 (Common Law Police Disclosure)</p> <p>Paragraph 4.11</p> <p>Common Law Police Disclosure focuses on providing timely and relevant information which might indicate a public protection risk. This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.</p>	<p>Amber</p> <p>There are close links with the police and information is shared.</p> <p>It is not known what information and sharing protocols are being used and in place.</p>	<p>Before the end of December 2020 NDC officers with appropriate police officers will investigate how effective and efficient current information sharing procedures and protocols are.</p> <p>The same officers will if required make recommendations to improve the procedures and protocols.</p>
<p>4.12 to 4.13 (Licensee self – reporting)</p>	<p>Amber</p>	<p>Start an eight week consultation exercise before</p>

<p>Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so.</p>	<p>NDC has a policy in place which includes different self-reporting matters and requests drivers notify the council within seven days.</p>	<p>the end of January 2021 with interested parties proposing to amend the current notification and self-reporting policy/condition, to include as a minimum the reporting items raised in paragraphs 4.12 to 4.13</p>
<p>4.21 (sharing licensing information)</p> <p>Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.</p>	<p>Red</p> <p>NDC did sign up for one year, staffing resources and costs prohibitive at the time, subsequently withdrew.</p>	<p>Research the benefits, costs and officer time required to maintain membership in the scheme. Make a decision on becoming a member of the scheme before the end of March 2021.</p>
<p>4.29 to 4.36 (Complaints against Licensees)</p> <p>Paragraph 4.29 All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.</p>	<p>Amber</p> <p>NDC have systems in place for recording complaints, with information being recorded on two different software packages, i.e. Lalpac and M3/Assure.</p> <p>Due to staffing resource analysing trends across all licensees does not take place and rarely against individuals</p>	<p>Licensing officers will review and investigate with appropriate colleagues the procedures for recording of complaints and the analysing of trends across all licenses as well as complaints against individual licensees by the end of February 2021.</p>
<p>4.30</p> <p>Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include</p>	<p>Amber</p> <p>NDC follows this approach. Lack of resource is an issue for a consistent approach and to following up and investigating complaints in a timely manner. More officer time is needed for this function and enforcement of the taxi trade.</p>	<p>Licensing officers will review and investigate with appropriate colleagues the procedures and timescales relating to drivers with a high number of complaints against them before the end of January 2021.</p>

no further action, the offer of training, a formal review of the licence, or formal enforcement action.		
<p>4.31</p> <p>To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website.</p> <p>Ways to make complaint to the authority should be displayed in all licensed vehicles.</p>	<p>Amber</p> <p>NDC has guidance on its website on how to make complaints about taxi drivers.</p> <p>Ways to make a complaint is not displayed in all licensed vehicles.</p>	<p>Licensing officers taking the standards into account will conduct a review of the guidance on its website and amend where appropriate before the end of December 2020.</p> <p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to introduce stickers in all licensed vehicles which displays the way to make a complaint.</p>
<p>5.3 (Training decision makers)</p> <p>All individuals that determine whether a licence is issued should be required to undertake sufficient training.</p>	<p>Amber</p> <p>All NDC officers and councillors have an opportunity to undertake training.</p>	<p>In light of the standards review if the available training is sufficient for members and officers who make decisions before the end of January 2021.</p>
<p>5.12 (fit and proper test)</p> <p>Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time day or night ?</p> <p>If on the balance of probabilities, the answer to the question is 'no' the individual should not hold a licence.</p>	<p>Red</p> <p>This question is presently not one which is routinely posed during the consideration of a driver's licence application."</p>	<p>This standard can be adopted immediately</p>
<p>5.15 to 5.17 (criminal convictions and rehabilitation)</p> <p>Annex – Assessment of previous convictions</p> <p>Refers to the consideration of applicants for and existing hackney carriage and private hire driver licences against a</p>	<p>Amber</p> <p>NDC has a convictions policy in place. Recent consultations and reviews of the policy have been conducted, but have not</p>	<p>The licensing service lead will review the Institute of licensing guidelines and the annex-assessment of previous convictions (page 35 to 36 of the standards) and produce guidelines which will be consulted on with interested parties</p>

<p>clear policy of previous criminal records.</p> <p>The standards are recommending the adoption of 'annex-assessment of previous convictions'. This draws on the work of the Institute of Licensing (IOL), in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.</p>	<p>resulted in an update to the policy.”</p>	<p>before the end January 2021.</p> <p>The proposed guidelines will indicate the highest available minimum period of elapsed time since the last conviction from comparing the documents.</p>
<p>6.2 All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.</p>	<p>Red</p> <p>It is not NDC policy for licensed drivers to sign up to the update service or for the authority to routinely check for new information every 6 months.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to make it mandatory for licensed drivers to sign up to the update service and allow the authority to routinely check for new information every 6 months.</p>
<p>6.3</p> <p>In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list. (unless there are exceptional circumstances)</p>	<p>Amber</p> <p>NDC does not issue a licence to a person on the barred list, however it is not written in the policy.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to introduce a policy of not issuing a licence to a person on either barred list unless there are exceptional circumstances.</p>
<p>6.5 to 6.7 (safeguarding awareness)</p> <p>6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training.</p>	<p>Red</p> <p>NDC does not require the taxi and private hire trade to undertake safeguarding training.</p> <p>Safeguarding advice and guidance to the trade is located on the NDC website</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to make it mandatory and a condition of licence for all licensed drivers to undertake safeguarding training and any other training the council deems necessary for said drivers to fulfil their rolls.</p>

		Before the end of 2021 review the authority's website to amend if necessary safeguarding advice and guidance to the trade.
<p>6.8 to 6.13 ('County Lines' exploitation)</p> <p>6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.</p>	<p>Red</p> <p>NDC does not require the taxi and private hire trade to undertake safeguarding training or training which includes ways in which drivers can help to identify county lines exploitation.</p>	Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to make it mandatory and a condition of licensing for all licensed drivers to undertake safeguarding training which includes county lines exploitation and any other training the council deems necessary for said drivers to full fill their rolls.
<p>6.14 to 6.15 (language proficiency)</p> <p>6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.</p> <p>6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above</p>	<p>Amber</p> <p>NDC does have a computer based 'driver test' which all new applicants for a hackney carriage and private hire drivers must pass. The test is dated in places and does not specifically test an applicant's oral and written English language skills.</p> <p>Before a licence is issued NDC requires the driver applicants to complete and pass a BTEC Level 2 Certificate in the Introduction to the Role of the Professional Taxi and Private Hire Driver.</p>	<p>To review the taxi driver test and BTEC course to establish if either contains appropriate sections on oral and written English skills</p> <p>If neither has adequate provision the appropriate sections on oral and written English skills by the end of April 2021.</p>
7.2 to 7.6 (Vehicle Licensing)	Red	Start an eight week consultation exercise before

<p>7.2 Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.</p>	<p>NDC does not require a basic disclosure check for its licensed vehicle proprietors.</p>	<p>the end of January 2021 with interested parties proposing to make it mandatory for a licensed vehicle proprietor (who is not a licensed driver) to undergo a basic DBS disclosure on an annual basis.</p>
<p>7.4 A refusal to licence an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence.</p>	<p>Red NDC does not have a policy on dealing with a person who holds a vehicle proprietors licence and not a driver's licence.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to apply the 'fit and proper' test on dealing with licensed vehicle proprietors.</p>
<p>7.7 to 7.13 (In vehicle visual and audio recording – CCTV) 7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.</p>	<p>Amber NDC has a brief section in current policy (para 16.0 to 16.4) CCTV is not compulsory in NDC licensed vehicles.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties seeking an opinion if the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users.</p>
<p>8.2 to 8.6 (Private Hire Vehicle Operator Licence) 8.2 Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.</p>	<p>Amber Current NDC policy requires a basic disclosure from the DBS on application but not an annual check.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to make it mandatory for licensed private hire vehicle operators should undertake an annual basic disclosure from the DBS</p>
<p>8.4</p>	<p>Red</p>	<p>Start an eight week consultation exercise before the end of January 2021</p>

<p>Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information.</p>	<p>NDC does not have a policy on dealing with a licensed private hire vehicle operator licence.</p>	<p>with interested parties proposing to apply the 'fit and proper' test on dealing with licensed private hire vehicle operators.</p>
<p>8.7 to 8.12 (booking and dispatch staff)</p> <p>8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public.</p> <p>Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.</p>	<p>Red</p> <p>NDC does not have this condition place.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing to make it a condition of granting an operator licence to require a register of all staff that will take bookings or dispatch vehicles is kept.</p>
<p>8.9 to 8.12 (booking and despatch staff)</p> <p>Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.</p>	<p>Red</p> <p>NDC policy does not have this in place.</p>	<p>Start an eight week consultation exercise before the end of January 2021 with interested parties proposing that the matters raised in paragraphs 8.9 to 8.12 become policy and a condition of granting an operator licence.</p>

- 4.10 The Statutory Standards are seen nationally an important first step in reforming the way the taxi and private hire vehicle sector is regulated and the should ensure consistent standards between licensing authorities. The Department for Transport fully expects licensing authorities to implement these measures as soon as possible. It is for that reason the proposed timetable for consideration and implementation is presented to this committee.

- 4.11 The standards do make recommendations which will have significant impact on policies, individual applications, office procedures, decision making, training, public information and the licensed hackney carriage and licensed trades.
- 4.12 The assessment of the standards against our policy indicates there are a number of recommendations and measures which are not included in the current policy. It is proposed that officer reviews and appropriate consultations with interested parties will take place. All the outcomes and recommendations for consideration will be reported back to this Committee for determination.
- 4.13 It is considered that the proposals to consider adopting the measures and recommendations in the standards are necessary to contribute to the Council’s safeguarding responsibilities.
- 4.14 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards. The Committee must from this point forward have regard to the Standards, whether or not they have yet been incorporated into the NDC policy.

RESOURCE IMPLICATIONS

- 5.1 Any financial costs which are reduced or incurred through the consideration process of implementing the measures and considerations in the standards will be taken into account when calculating fees for taxi related licences.
- 5.2 Costs for subscription to the DBS update service will be borne by licence holders.

6 CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?	Key decision?
Part 3 Annexe (4)	Delegated	No

7 STATEMENT OF CONFIDENTIALITY

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

8 BACKGROUND PAPERS

- 8.1 The following background papers were used in the preparation of this report:
 - *Local Government (Miscellaneous Provisions) Act 1976*
 - *Town Police Clauses Act 1847*
 - *North Devon Council Hackney Carriage and Private Hire Licensing Policy*
 - *Department for Transport Statutory Taxi & Private Hire Vehicle Standards.*

The background papers are available for inspection and kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

- 9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.
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Licensing and Community Safety Committee Chair: Cllr Frederick Tucker

Author: Howard Bee

Date: 30.9.20