

Report of	Meeting	Date
Director of Early Intervention and Support	Licensing and Public Safety Committee	1 February 2017

CONSOLIDATED TAXI LICENSING POLICY

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to consider the consultation responses to the draft consolidated Taxi Licensing Policy and agree the timescale for review of the Policy.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee note the consultation responses received on the proposed Draft Hackney Carriage and Private Hire Licensing Policy and determine whether to include the condition for CCTV to be installed in all vehicles, as suggested by the consultation response.
3. That the Licensing and Public Safety Committee note the consultation responses received on the proposed Draft Hackney Carriage and Private Hire Licensing Policy and determine whether to include the proposed wording suggested by the Guide Dogs Association and include a requirement for any medical exemption certificate in relation to assistance dogs to be produced in a tactile format.
4. That the Licensing and Public Safety Committee determine the proposal to include a condition that a Council's Taxi Test not only requires the vehicle to pass an MOT test as part of the testing regime, but that the vehicle will fail the Council's Taxi Test where there are any advisory recommendations noted on that MOT.
5. That the Licensing and Public Safety Committee determine the proposal to remove the allowance (when a driver has made a timely application for a DBS check i.e. 28 days before the renewal date) for a Licence to be renewed in the absence of the DBS certificate.
6. That the Licensing and Public Safety Committee determine the proposal to attach an age limit of 6 weeks to the HPI check required by the vehicle conditions.
7. That the Licensing and Public Safety Committee determine the proposal from Customer Services to require all supporting documentation to be provided before a new driver application can be accepted.
8. That the Licensing and Public Safety Committee determine the implementation date of the Taxi Policy as either with immediate effect or from 1st April 2017.
9. That the Licensing and Public Safety Committee determine the options for the timetable for a formal review and consultation of the policy as either 3 or 5 years.
10. That delegated power is granted to the Director of Early Intervention and Support to make amendments to the policy from time to time arising from changes to legislation or case law.

EXECUTIVE SUMMARY OF REPORT

11. The Hackney Carriage and Private Hire Licensing Policy (**Appendix 1**) consolidates all previous Taxi Licensing policies with the addition of a very few proposals that are detailed below..
12. Therefore, the Licensing and Public Safety Committee has already carefully considered and made decisions on the details of each of the policies at previous committees.

13. The purpose of the published Policy is to ensure transparency and aid in the decision making process.
14. The Policy will be a living document, so where legislation changes occur or decisions that impact on the policy are made by the Licensing and Public Safety Committee over the life of the policy, the document will be updated to reflect this. However, the philosophy would be that the policy, which has been consulted upon, would be the basis for all decisions and in normal circumstances the policy would only be subject to revision at the regular, timetabled review dates, where the changes would be subject to consultation.
15. It is anticipated that this may have an impact on the number of Licensing and Public Safety Committee meetings required throughout the policy life, but this has yet to be tested.
16. The Draft Policy was put out for consultation for a period of 12 weeks to the end of December 2016, each licenced driver, vehicle proprietor and private hire operator was written to and provided a link to the Council's website, where the document was published.
17. The Council received two consultation responses.
18. The first consultation response is from Coopers, sent via email, suggesting the mandatory installation of CCTV in all vehicles and members are asked to consider the inclusion of this vehicle condition in the Policy for all new vehicles and also for existing vehicles as part of the renewal conditions.
19. The second was from the Guide Dogs Association, asking that we include conditions in relation to carrying assistance dogs, the consultation information they have provided is attached in **Appendix 2**.
20. Chorley Council already have conditions in the Policy in relation to assistance dogs, however, the committee may want to consider whether we adopt the wording proposed by the Guide Dogs Association and also the requirement for Tactile Medical Exemption Certificates, which allows those partially sighted or blind passengers to ensure that the certificate is valid.
21. At the last Licensing and Public Safety Committee in November 2016, following some research into MOT pass and fail rates for Chorley Licensed vehicles, Officers raised concerns about the clear lack of preventative maintenance carried out to a large proportion of the vehicles checked. Members will recall that there were high percentages of vehicles failing MOT's on numerous occasions and also issues with advisory notes, in particular in relation to tyres close to legal limits, worn brakes and suspension issues, where those issues were then being shown as the reason for failure at subsequent tests.
22. Members are asked if they want to take the opportunity before finalising the Taxi Policy to include a change to the existing Chorley Council Taxi Test whereby the vehicle fails the test where there are MOT advisory notes on the MOT certificate, requiring proprietors to ensure that those issues are addressed before the Vehicle Licence is issued or renewed.
23. In accordance with the implementation of the Immigration Act 2016 for the Taxi Trade, and the update provided to Members at the meeting in November, the wording in relation to the Right to Work section of the Policy has been updated to reflect the legal requirements placed upon the Council.
24. Members are asked to consider the removal of the existing procedure, which allows for a Licence to be renewed in the absence of a DBS Certificate where the DBS application has been made in a timely fashion (28 days prior to the expiry date). Members are recommended to change the policy to a 'No DBS Certificate- No Licence' approach. Members are advised that applicants are invited to start their renewal application and obtain their DBS and Medicals up to 3 months prior to the expiry of their licence.
25. Legal have invited members to consider an alternative, which is similar to our current policy. Members will want to consider the risks to the Council in making this decision.
26. Members are asked resolve a deficiency in the vehicle conditions and attach an age limit of 6 weeks to the HPI check at the point it is presented with the vehicle for inspection, to prevent old checks being presented and the Council having to accept these because the policy does not currently require the HPI to be recent in nature.
27. The Council received a consultation response from Customer Services with particular regard to new driver applications, asking that the policy require all supporting documentation, such as DBS certificate, medical, driver qualifications to be submitted before the application is accepted and the fee taken. We already encourage this on the forms, but it is not currently set out in policy.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

28. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	X	A strong local economy	
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

29. Chorley Council is responsible for Taxi Licensing within the provisions of the Local Government (Miscellaneous Provisions) Act 1976, in this document to be referred to as 'The Act'.
30. Additional provisions in relation to Hackney Carriage Vehicles are present within the Town and Police Clauses Act 1847 and within the Council's byelaws.
31. Taxi licensing legislation is limited and most functions and decisions with regard to Taxi Licensing refer to policy decisions made by the Council.
32. Chorley Council's Licensing and Public Safety Committee are responsible for making these policy decisions, which provides a framework for how the Council will process, administer, enforce and charge fees for Taxi Licensing.
33. Policy decisions are held within committee reports and the purpose of a consolidated Hackney Carriage and Private Hire Licensing Policy is to make those policy decisions easily accessible to promote efficiency and consistency in the Council's licensing functions.
34. The Licensing and Public Safety Committee has already carefully considered and made decisions on the details of each of the policies at previous committees, therefore the proposed Policy simply consolidates those decisions into one document with the exception of a few changes, identified in the following paragraphs.
35. The first consultation response is from Coopers, sent via email, suggesting the mandatory installation of CCTV in all vehicles and members are asked to consider the inclusion of this vehicle condition in the Policy for all new vehicles and also for existing vehicles as part of the renewal conditions.
36. Camera systems can now be obtained for as little as £30. Coopers have made this suggestion following and as a consequence of the advice provided by the trainers during the Safeguarding Awareness sessions.
37. This was raised with the trade at the Licensing Liaison Panel Meeting and members present supported the suggestion.
38. The second consultation response is detailed in Appendix 2, which includes the proposals from the Guide Dogs Association in relation to medical exemptions for drivers, the wording of conditions and the requirement for tactile medical exemption certificates.
39. At the last Licensing and Public Safety Committee in November 2016, following some research into MOT pass and fail rates for Chorley Licenced vehicles, Officers raised concerns about the clear lack of preventative maintenance carried out to a large proportion of the vehicles checked. Members will recall that there were high percentages of vehicles filing MOT's on numerous occasions and also issues with advisory notes, in particular in relation to tyres close to legal limits, worn brakes and suspension issues, where those issues were then being shown as the reason for failure at subsequent tests.
40. Members are asked if they want to take the opportunity before finalising the Taxi Policy to include a change to the existing Chorley Council Taxi Test whereby the vehicle fails the test where there are MOT advisory notes on the MOT certificate, requiring proprietors to ensure that those issues are addressed before the Vehicle Licence is issued or renewed.

41. Members' attention is also brought to the fact that due to lack of enforcement resources, there are limited opportunities for officers to carry out rank inspections and other proactive interventions such as ANPR events, and this does mean that the Enforcement Officers are less likely to pick up on defects and issues such as worn tyres in their routine work as proactive inspections are infrequent due to the volume of reactive work.
42. This proposal was raised with the trade at the Licensing Liaison Panel Meeting and members present supported the suggestion.
43. In accordance with the implementation of the Immigration Act 2016 for the Taxi Trade, and the update provided to Members at the meeting in November the wording in relation to the Right to Work sections of the Policy have been updated to reflect the legal requirements placed upon the Council.
44. Members are asked to consider the removal of the existing procedure, which allows for a Licence to be renewed in the absence of a DBS Certificate where the DBS application has been made in a timely fashion (28 days prior to the expiry date). This allowance was agreed in 2015 in order to be flexible to existing licence holders and renew on the basis that there was no evidence at renewal that the applicant did not meet the fit and proper test.
45. However, recent events in other neighbouring authorities have meant that the policy of issuing the renewal without sight of the updated DBS has been severely criticised and highlighted as poor practice on the part of the local authority. In light of this and the recent accessibility of electronic DBS applications to our applicants and the availability of the updating services, members are recommended to change the policy to a 'No DBS Certificate- No Licence' approach.
46. Members are advised that most delays in DBS certificates being returned are as a result of the applicant failing to provide all the information for the application in a timely manner. With the new online system they register then delay by waiting before they are reminded to complete the ID verification. If they complete all the application steps swiftly, then the DBS is usually processed within 7 days. This will not always be the case and legal have invited members to consider an alternative which is similar to the current policy and reminded members that the police should contact the Council where drivers are arrested as it is a notifiable occupation. However, this is reliant on the custody sergeant being familiar with the requirements in each case and officers have experience of where this has happened, but also of where this has not happened (the specific details of which could not be disclosed in the open forum of this meeting).
47. As part of the consultation exercise, it was noticed by officers that the new vehicle conditions, although requesting an HPI check for the vehicle, due to the DVLA no longer putting write off information on the log book, but we had not included a cut off for the age of the check, so we could be presented with HPI that are many months old and the policy would not support the need for a more up to date check. It is felt that 6 weeks would be sufficient to allow an applicant to have the check made before purchasing the vehicle and have the log book returned by the DVLA.
48. The Council received a consultation response from Customer Services with particular regard to new driver applications, asking that the policy require all supporting documentation, such as DBS certificate, medical, driver qualifications to be submitted before the application is accepted and the fee taken. We already encourage this on the forms, but it is not currently set out in policy. Customer Services felt that this would improve efficiency in have piece meal applications and reduce the administration in chasing up elements of the application or processing refunds for rejected applications. The only items outstanding after the acceptance of the application and fee would be the knowledge test and associated safeguarding training and test, which would be arranged with the Council on receipt of the application.

IMPLICATIONS OF REPORT

49. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	X
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Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

50. There is no statutory requirement to maintain an overarching policy on taxi licensing and no national guidance to that effect. However a comprehensive written policy will assist in promoting consistency and fairness in decisions. It is also a useful resource for officers to refer to in the absence of the Lead Licensing and Enforcement Officer and should assist in succession planning.
51. There is no statutory requirement to review the policy but it is good practice to keep it under periodic review in the light of changes in legislation, relevant case law and any national guidance.
52. The policy is not rigid and officers and members are not obliged to follow it. However the Council should have good reason to depart from the policy.
53. With reference to the DBS proposal of 'No DBS- No Licence' Members may want to consider an alternative based on the statutory declaration suggested by Jim Button, the preeminent Taxi Licensing lawyer.
54. In a few cases a timely application is made to DBS, but the checks are not returned in time for the renewal date through no fault of the applicant but because of delays by DBS.
55. DBS checks received on or after the renewal date on a three year basis will necessarily contain convictions or cautions which are historic. In some cases the matters will be nearly three years old. Members should weigh the advantage of insisting on a "no DBS no licence approach" even if a timely application has been made by the driver if the DBS is likely to be received a few weeks after the renewal date as against the fact that a DBS check received before the renewal date may contain details of offences committed one, two or nearly three years previously.
56. A DBS check, even if received in good time before renewal is therefore always potentially stale. This is why the conditions attached to private hire driver licences oblige the holder to notify the Council in writing within 7 days of any convictions. Some drivers do not comply with this condition. The Council can rely on the additional protection arising from the fact that taxi driving is a notifiable occupation. This means that the police should notify the Council of any conviction (at least for serious matters) in respect of anyone known by the police to be a taxi driver. This system is not of course a failsafe, if only because for the system to work it must be known to the police that the alleged offender holds a taxi licence. Many holders of taxi licences do not work full time as taxi drivers and the fact that they hold a taxi licence may not always be apparent to the police.

COMMENTS OF THE FINANCE OFFICER

57. Any efficiencies and savings which arise from the introduction of a published Taxi Licensing Policy will be considered and reflected in any future review of the fees and charges.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION AND SUPPORT

There are no background papers to this report.

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