

REPORT TO	ON
GENERAL LICENSING COMMITTEE	13 JUNE 2017

Jan 2017



TITLE	AUTHOR	Agenda item No.
PROPOSED REVISIONS TO LICENSING POLICY	PETER HAYWOOD	

### 1. PURPOSE OF THE REPORT

Members are requested to consider the total of 14 proposed revisions to the existing Licensing Policy, as set out in section 6 to this report below.

### 2. RECOMMENDATIONS

Members of the General Licensing Committee are requested to:

- 2.1 consider the proposed amendments to the current Licensing Policy (set out in section 6 below);
- 2.2 identify which (if any) of the proposed revisions should be subject to an external consultation exercise with interested parties; and
- 2.2 agree to receive the outcome of a consultation exercise at a future meeting, with a view to referring any accepted amendments to the next meeting of the full Council for formal adoption.

### 3. EXECUTIVE SUMMARY

- 3.1 This report identifies a number of proposed changes for members' consideration relating to the Licensing Policy. These cover a wide range of licensable activities, including licensed drivers; licensed vehicles; and licensed operators. Full details of each of the 14 proposed Policy / Conditions changes are set out in section 6 below.

### 4. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	x

### 5. BACKGROUND TO THE REPORT

- 5.1 In mid-2016, the General Licensing Committee adopted a revised Licensing Policy. The purpose of the revised document was to consolidate, strengthen and update the Council's own rules surrounding the issuing of licenses for Hackney Carriage and Private Hire vehicles and drivers.
- 5.2 On 20 July 2016, the revised Policy was submitted to and adopted by full Council. It has been used by Licensing staff and members of the General Licensing Committee since that date.

However, it is entirely appropriate to re-visit the contents of the Council's Licensing Policy at regular intervals in order to ensure that it is robust, up to date and reflective of best practice. Indeed, under the Committee's Forward Plan (which is presented to members at regular intervals for their consideration), the Licensing Policy was originally proposed to be re-visited in July 2017. However, due to various pressing concerns outlined below, this has been brought forward to June 2017.

5.3 This report is intended to ensure that members of the General Licensing Committee have an updated Licensing Policy which stands comparison with that of any other authority across the country. In order to ensure that the Policy is fully fit for purpose, this report sets out a total of 14 proposed amendments to the existing Licensing Policy (details of which are set out below).

## **6. PROPOSED REVISIONS TO THE LICENSING POLICY**

The suggested amendments have been broken down into various categories for ease of reference:

### **6.1 Requirements relating to licensed drivers**

#### **6.1.1 Driver Qualifications**

Section 5.7 of the current Licensing Policy is specific in requiring a new applicant for a Hackney Carriage or Private Hire driver's licence to possess either:

- a BTEC Award in Transporting Passengers by Taxi or Private Hire; or
- a NVQ Level 2 certificate in Road Passenger Vehicle Driving.

Each of these is discussed in turn:

#### BTEC Award in Transporting Passengers by Taxi or Private Hire

This award is no longer available, having been replaced by an updated version known as the Level 2 BTEC Certificate in Taxi and Private Hire Driver. This latest version of the qualification can currently be undertaken at Lancashire College of Further Blackburn in Blackburn for a fee of £250 + VAT. The course runs for 4 days, 3 of which are classroom-based and the fourth is for formal online assessment. It is externally validated by an external organisation (PSN) and has a pass rate of around 80%. Modules include Road Safety; Vehicle Safety; Customer Service; Passengers who require Assistance; and Transporting of Children and Young Persons. Although not directly tackling issues such as Child Sexual Exploitation, this latter module does include a significant element of Safeguarding issues, such as:

- protocols for ensuring drivers act in loco parentis (delivering children safely to school or the care of an adult, not using physical restraints, the role of an escort);
- from the child's behaviour whilst in the licensed vehicle, identifying issues of bullying or other matters which may cause the child distress and reporting these appropriately; and
- the importance of communicating matters of concern to school liaison staff or parents.

Other local authorities who require this qualification are Preston City Council and Knowsley MBC (both of whom require it to be held before granting) and Blackpool Council (who allow a period of 12 months for it to be acquired after granting).

#### NVQ Level 2 certificate in Road Passenger Vehicle Driving

This qualification is also provided by Lancashire College in Blackburn, but is rarely taken as it requires a workplace assessment. As such, demand for it is low.

Officers have received representations from several local operators to the effect that Level 2 qualifications are overly expensive and unduly restrictive (especially if a driver is only seeking to work for a few hours per week rather than it be a full-time job). To combat this problem, both prior and subsequent to July 2016 officers had been accepting applications from drivers with a lesser qualification run by the Driver Standards Agency (DSA) at a cost of around £90 and an afternoon in length; fewer than 10 licenses are believed to have been granted on this basis. This qualification is no longer available, but other local authorities (eg Chorley and Rossendale) are accepting similar qualifications from training organisations such as Blue Lamp. This course lasts for 1 hour at a cost of £87, and consists mostly of a driving test (emergency stop etc).

An alternative method is to take the testing of new drivers back in house and require staff to provide the training themselves (as Doncaster and Rochdale Councils do). This approach solves the problem of who to use for this service, and provides an opportunity for a locally-delivered course to be available at a reasonable cost. In the longer term, this authority could also develop its own test / qualification, which could be an amalgam of the knowledge / CSE training / customer care standards and anything else we would wish to cover. The Council could then charge an appropriate sum for this service (at levels more consistent with the previous DSA fee) and generate income, whilst also providing a more responsive service to local drivers and applicants. However, this approach would be resource-intensive to develop and deliver, and would be a considerable drain on current staffing levels.

In order to (i) update the Policy to reflect qualifications locally available and (ii) keep future options open, it is suggested that the following wording be adopted in section 5.7 of the Policy:

**Proposed Change No 1 (Policy)**

“Before a new applicant is granted a Hackney Carriage or a Private Hire driver’s licence, they must be able to provide original evidence that they have passed the BTEC Level 2 Certificate in Taxi and Private Hire Driver or an appropriate and equivalent Level 2 qualification. Alternatively, a new applicant must have attended and successfully completed any in-house course to be devised and presented by officers of South Ribble Borough Council, and paid any fee approved by members for administration of this course. Any driver whose licence with the authority has been granted since July 2016 on the basis of them having completed the now-discontinued course provided by the Driver Standards Agency will be given a period of 6 months to register for a suitable training course and 12 months to complete the qualification”.

The licensed trade is understood to be keen to make representations on this matter to members at the next Taxi Trade Forum, with a view to seeking adoption of the Chorley / Blue Lamp approach. As a result, members may wish to debate the level of qualification required by this authority at a future meeting of the General Licensing Committee. A similar debate may be required on the issue of Safeguarding training, where (despite officers’ best efforts) no suitable provision for a course on Child Sexual Exploitation has yet been identified.

Members are requested to consider whether to consult on the proposed new wording of the Policy. Any further changes proposed as a result of future trade discussions will require further consultation prior to possible adoption.

**6.2 Requirements relating to licensed vehicles**

**6.2.1 Guide / Assistance Dogs**

The current Licensing Policy and conditions contain a number of references which impact upon the transporting of guide / assistance dogs:

- i) Hackney Carriage Vehicle conditions

Paragraph 19 - “A blind or otherwise disabled passenger shall be entitled as of right to be accompanied by a guide/ assistance dog in the vehicle unless the driver has

been granted an exemption from the Disability Discrimination Act 1995. No additional cost can be levied for the carriage of an assistance / guide dog.”

ii) Private Hire vehicle conditions

Paragraph 20 – as above

The legislative source has now changed, with the Disability Discrimination Act being superseded by the Equalities Act 2010.

**Proposed Change No 2 (Conditions)**

In the above sections for Hackney Carriage and Private Hire vehicles it is proposed to substitute the words “Equalities Act 2010” for the existing words “Disability Discrimination Act 1995” in order to bring this up to date.

Whilst trade consultation is not strictly required in this instance, members are requested to consider whether (for completeness) to consult on the proposed new wording of the above conditions.

**6.2.2 Tobacco (section 5.11)**

Para 5.11 of the current Licensing Policy states:

“Tobacco products may not be smoked or used inside a licensed vehicle at any time.”

The Policy is therefore vague on whether new tobacco products (such as the increasingly-fashionable e-cigarettes) are caught within the definition of “tobacco”. It is proposed that this position is clarified by amending the wording to read as follows:

**Proposed Change No 3 (Policy)**

“Tobacco products (including e-cigarettes) may not be smoked or used inside a licensed vehicle at any time.”

Members are requested to consider whether to consult on the proposed new wording of the Policy.

In addition, and to assist in enforcement of this area, amendments to the existing conditions for Hackney Carriage and Private Hire vehicles will need to be made. This is because e-cigarettes do not fall within the current wording of the Health Act 2006. The current wording of the conditions states:

i) Private Hire Vehicle Conditions - Condition 12:

“All vehicles must display no-smoking signs in each passenger carrying compartment of the vehicle in accordance with the Health Act 2006.”

ii) Hackney Carriage Vehicle Conditions – Condition 10

The same wording is found as in Condition 12 (Private Hire).

**Proposed Change No 4 (Conditions)**

Revised conditions to read:

“All vehicles must display no-smoking signs in each passenger-carrying compartment of the vehicle, these signs relating to both tobacco and e-cigarettes”.

### 6.2.3 Tints

At sections 6.6 (Hackney Carriage vehicles) and 7.5 (Private Hire vehicles), the current Policy states:

“All factory fitted glass in the vehicle shall permit a minimum of 70% light transmission and no vehicle shall be fitted with additional film designed to tint or darken the glass.

In respect of [Hackney Carriage or Private Hire] vehicles licensed prior to the implementation of this policy, an exemption from the 70% requirement may be applied to factory fitted glass to the rear of the driver’s pillar on application to the Licensing Unit”.

The purpose of this requirement is to ensure that any inappropriate activity in the rear of a licensed vehicle is not concealed by the use of tinted rear windows. As such, it is a significant precautionary measure and it is not proposed to dilute this approach. Indeed, initial research has confirmed that this current wording stands comparison with that adopted by a number of other local authorities:

- Preston – manufacturer’s fitted tinted windows are acceptable;
- Blackpool – their policy simply states ‘Any window tint must comply with relevant UK legislation’;
- Chorley – no mention of tints other than in respect of limousines; and
- Rotherham – it would appear that any level of tinted windows in the rear passenger compartment is in effect allowed.

However, in order to bring the wording of the Policy into line with operating practice, certain issues need to be addressed:

- a) rather than oblige owners of vehicles licensed with the authority prior to July 2016 to apply for an exemption, it is more appropriate to state that vehicles licensed after this date will be subject to the 70% tint rule; and
- b) any vehicles licensed post July 2016 in contravention of the 70% requirement (of which there are a handful) will be given a period of 6 months’ grace to bring their vehicles into compliance.

Secondly, in paragraph 7.13 (Private Hire) of the current Licensing Policy, the Council exempts “executive hire” vehicles from certain requirements which apply to other Private Hire vehicles. The purpose of this is to reflect the status of these vehicles (which tend to be upmarket and used for more exclusive work). As these vehicles are not involved in day to day taxi activity, the issue of tints is felt to be less relevant and it is proposed to exempt such vehicles from the 70% tint requirement. Members should note that the final decision on whether to apply the tint exemption will continue to rest with the Committee.

#### **Proposed Change No 5 (Policy – Hackney Carriage)**

Sections 6.6 of the current Policy be amended to state:

“Any Hackney Carriage vehicle which is first licensed after the implementation of this Policy in July 2016 shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass.”

Members are requested to consider whether to consult on the proposed new wording of the Policy.

#### **Proposed Change No 6 (Policy – Private Hire)**

Section 7.5 of the current Policy be amended to state:

“Any Private Hire vehicle which is first licensed after the implementation of this Policy in July 2016 shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass. The proprietor of a Private Hire vehicle of exceptional quality and exclusively used for executive hire work may apply for an exemption from the requirement to be fitted with glass windows which permit a minimum of 70% light transmission. In determining whether a vehicle is considered suitable for this exemption, the Committee will take into account factors including (but not restricted to):

- i) the make, model and value of the vehicle;
- ii) the exceptional condition of the vehicle, including the bodywork and interior passenger accommodation;
- iii) whether any particular contract relies on the specific use of the vehicle;
- iv) the nature of the operator's business; and
- v) how and where the vehicle is advertised and marketed.”

Both of the above proposals also impact on the vehicle conditions for Hackney Carriage and Private Hire. The relevant wording is reproduced below:

Hackney Carriage Vehicle Conditions – Condition 14:

“The windows of the vehicle must meet the legal standards for light transmission through the front windscreen and front side windows. Rear windows and rear side windows must have a light transmission of at least 70%, irrespective of whether the vehicle was manufactured contrary to this standard. Limousines are excluded from the condition relating to rear and side windows.”

In order to bring the condition into line with proposed policy changes, it is suggested that the above condition should be amended to read as follows:

**Proposed Change No 7 (Conditions)**

Condition 14 be amended to read:

“Any Hackney Carriage vehicle which is first licensed after the implementation of this Policy in July 2016 shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass.”

Private Hire Vehicle Conditions – Condition 25:

“The windows of the vehicle must meet the legal standards for light transmission through the front windscreen and front side windows. Rear windows and rear side windows must have a light transmission of at least 70%, irrespective of whether the vehicle was manufactured contrary to this standard.”

In order to bring the conditions into line with proposed policy changes, it is suggested that the above condition should be amended to read as follows:

**Proposed Change No 8 (Conditions)**

Condition 25 be amended to read:

“Any Private Hire vehicle which is first licensed after the implementation of this Policy in July 2016 shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass. The proprietor of a Private Hire vehicle of exceptional quality and exclusively used for executive hire work may apply for an exemption from the requirement to be fitted with glass windows which permit a minimum of 70% light transmission. In determining whether a

vehicle is considered suitable for this exemption, the Committee will take into account factors including (but not restricted to):

- i) the make, model and value of the vehicle;
- ii) the exceptional condition of the vehicle, including the bodywork and interior passenger accommodation;
- iii) whether any particular contract relies on the specific use of the vehicle;
- iv) the nature of the operator's business; and
- v) how and where the vehicle is advertised and marketed.”

The current approach to tints obliges vehicle owners to subject their vehicles to a tint test at a vehicle testing station. However, it is proposed that in future the test will be carried out by Licensing officers using their own tint test equipment. This will be easier for owners as all vehicles are examined by Licensing staff on first application, so the tint test can be carried out at this initial stage. The change can be effected by a simple modification to the current Road Worthiness Certificate (Appendix 6 to the current Licensing Policy):

**Proposed Change No 9 (Policy)**

Section 85 (Window Tints) to be removed from the Certificate of Roadworthiness included as Appendix 6 to the current Licensing Policy.

#### **6.2.4 Display of external plates**

Under section 7.13 of the current Policy, Private Hire vehicles of “exceptional quality” which are used for executive hire work can also apply for an exemption from the requirement to display external plates. In order to fully bring the definition of exceptional quality into line with that set out in the Policy with regard to tints, it is proposed that the relevant wording of section 7.13 should be amended to read as follows:

**Proposed Change No 10 (Policy)**

The relevant element of section 7.13 be amended to read:

“In determining whether a vehicle is considered suitable for this exemption, the Committee will take into account factors including (but not restricted to):

- i) the make, model and value of the vehicle;
- ii) the exceptional condition of the vehicle, including the bodywork and interior passenger accommodation;
- iii) whether any particular contract relies on the specific use of the vehicle;
- iv) the nature of the operator's business; and
- v) how and where the vehicle is advertised and marketed.”

#### **6.2.5 Vehicle Age Limits**

For Hackney Carriages (paragraph 6.9 of the Policy), the typical age limits are 4 years (new vehicles which are first presented to Licensing), rising to a defined upper age limit of 8 years. However, the exception to these age limits is where Hackney Carriages are “purpose built taxis...or wheelchair accessible vehicles”; in such cases the age limits are 6 years when first presented, rising to a maximum upper age limit of 12 years.

Paragraph 7.8 of the Policy confirms that, for Private Hire, the typical age limits are the same (4 years when first presented, rising to a maximum of 8 years). Again, there is a permitted variation from these ages, although the wording for Private Hire is slightly different for Hackney Carriages. The Policy states that for “larger MPVs minibuses other wheelchair accessible vehicles” (sic) the age limit when new is 6 years, rising to a maximum of 12 years.

It has been pointed out that the above wording is not precise when relating to larger family style vehicles (such as Ford Galaxies), which are not large enough to be classed as minibuses. To rectify this, it is suggested that the wording in paragraph 7.8 should be retained but altered in terms of its grammar.

### **Proposed Change No 11 (Policy)**

Paragraph 7.8(b) should be amended to read:

“The Council will where appropriate issue Private Hire licences to:

.....

- (b) Larger MPVs, minibuses and other wheelchair accessible vehicles which are no older than 6 years, when first presented for licensing.”

Members are requested to consider whether to consult on the proposed new wording of the Policy.

### **6.2.6 Taximeters (section 6.12)**

Currently, paragraph 6.12 of the Policy stipulates that all taximeters on Hackney Carriages should be “sealed and approved by a recognised agent”. Similar wording is found in paragraph 7.11 for Private Hire vehicles (where the use of taximeters is optional). It is felt that technology has overtaken this wording, with new digital / hand-held devices (as used by 80+ Avacab vehicles) technically falling outside this definition. It is therefore suggested that this clause should be re-worded as follows:

### **Proposed Change No 12 (Policy)**

The following wording will be added to paragraph 6.12:

“Alternatively, the use of a digital / GPS taximeter is acceptable so long as its accuracy is tested by a Licensing officer against a measured mile.”

Members are requested to consider whether to consult on the proposed new wording of the Policy.

### **6.2.7 Seating numbers**

There is currently nothing in the Policy to determine whether larger vehicles (eg Ford Galaxies) should be licensed for 6 persons just because they are capable of carrying 6 persons. The staff feel that they should be able to license such vehicles for (say) 4 persons only when access for 6 is restricted or difficult. It is suggested that an additional sentence should be added to the following paragraphs.

### **Proposed Change No 13 (Policy)**

Additional sentence to be added to paragraphs 6.9 (Hackney Carriage) and 7.8 (Private Hire):

“Determination of the number of passengers which the vehicle will be licensed to carry will be the responsibility of the Licensing Officer on presentation of the vehicle at first inspection.”

Members are requested to consider whether to consult on the proposed new wording of the Policy.

## **6.3 Requirements relating to licensed operators**

### **6.3.1 Operator / staff**

The current Policy states at section 9.3:

“Operators will be expected to ensure that all dispatch staff they employ also undertake the online training provided through Lancashire County Council’s website or training provided by SRBC”.

Enquiries with Lancashire County Council have confirmed that no such online training is available from them. Historically there has been no attempt to engage with operators in terms of their staff



undergoing training so this would need to be taken into account in the event of any new application / renewal.

It is worth noting that the Council has no regulatory authority over dispatch staff, who are not employed by the Council nor subject to any licensing regime. In addition, it would fall to South Ribble Council staff to provide this training for potentially a large number of people (putting a drain on available resources), and this clause is not one commonly adopted by local authorities. Should members wish to retain this measure, then there would need to be some means of checking that operators were meeting their obligation (eg via the production of records kept).

### **Proposed Change No 14 (Policy)**

Members are therefore requested to consider the 2 options put forward below:

- a) To delete section 9.3 from the Policy; or
- b) To adopt the suggested amended wording as set out below:

“Operators will be expected to ensure that all dispatch staff they employ also undertake appropriate Safeguarding training. This training will either be provided directly by Council staff or commissioned from an appropriate provider. Operators will be expected to keep adequate records of all Safeguarding training undertaken by staff (including name of staff member and date undertaken) and to make all such records available for inspection by an officer of South Ribble Council on request.” ”

If choosing option b) above, members are requested to consider whether to consult on the proposed new wording of the Policy.

## **7. CONSULTATION EXERCISE**

7.1 All of the proposals above (with the exception of Nos 2 and 5) relate to a proposed change of wording to the Policy; others relate to a proposed change of condition or amendment to the Certificate of Roadworthiness. Legal advice has confirmed that – with members’ agreement – Policy changes may be made subject to the following procedure:

- Proposals to be mentioned at the first Taxi Trade Forum scheduled to take place subsequent to this Committee meeting;
- Formal 28 day consultation period to be held starting at an appropriate time after this Forum;
- Results of consultation to be brought back to the next meeting of this Committee, with a view to formal adoption being considered; and
- Any agreed Policy changes will then be forwarded to Council for ratification.

7.2 With regard to proposed change to a condition (proposed change no 2), a change could only be made to new licences or on renewal of an existing licence. It is not possible to amend a condition in any other way, despite a consultation process. Such changes will therefore only come into effect on a new licence or on a renewal.

7.3 It is proposed that a change to the Certificate of Roadworthiness (proposed change no 5) could be made immediately.

## **8. FUTURE ISSUES**

8.1 Members are asked to note that this report does link to other reports on agenda (eg the report on a Modified Vehicles Policy) which may subsequently require further Policy modifications.

## 9. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 9.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

### 9.2 Comments of the Monitoring Officer

It is important to ensure that the council has an effective licensing policy. The majority of changes will require to be consulted on with stakeholders.

<b>Other implications:</b>	
<ul style="list-style-type: none"><li>• <b>Risk</b></li></ul>	The Council faces reputational and legal risks from having an obsolete or ineffective Licensing Policy; the changes identified in this report are intended to ensure that this risk will be minimised.
<ul style="list-style-type: none"><li>• <b>Equality</b></li></ul>	None
<ul style="list-style-type: none"><li>• <b>HR</b></li></ul>	None

## 10. BACKGROUND DOCUMENTS (or there are no background papers to this report)

None