

## GENERAL LICENSING COMMITTEE

TUESDAY, 17TH OCTOBER, 2017, 6.00 PM

CROSS ROOM, CIVIC CENTRE, LEYLAND

### AGENDA

**1 Apologies for Absence**

(Pages 3 - 6)

**2 Minutes**

To confirm the minutes of the General Licensing Committee meeting held on 19 September 2017 (enclosed).

**3 Declarations of Any Interest**

Members are requested to indicate at this stage in the proceedings any items on the agenda in which they intend to declare an interest. Members are reminded that if the interest is a Disclosable Pecuniary Interest (as defined in the Members' Code of Conduct) they must leave the room for the whole of that item. If the interest is not a Disclosable Pecuniary Interest, but is such that a member of the public could reasonably regard it as being so significant that it is likely that it would prejudice their judgment of the public interest (as explained in the Code of Conduct) then they may make representations, but then must leave the meeting for the remainder of the item.

**4 Equalities Legislation (1) - Activation of elements of s165 and s167 of the Equalities Act 2010 relating to wheelchair users, along with associated documentation**

(Pages 7 - 36)

Report of the Director of Development, Enterprise & Communities (enclosed).

**5 Equalities Legislation (2) - Draft Policy for Medical Exemption from Requirement to Carry Assistance Dogs**

(Pages 37 - 58)

Report of the Director of Development, Enterprise & Communities (enclosed)

**6 Equalities Legislation (3) - Draft Policy/Testing Requirements to ensure Safety of Licensed Vehicles which have been subject to modification**

(Pages 59 - 80)

Report of the Director Of Development, Enterprise & Communities (enclosed)

<b>7 Proposed Adoption of Intended Use Policy</b>	(Pages 81 - 96)
Report of the Director of Development, Enterprise & Communities (enclosed).	
<b>8 Proposed Revisions to Licensing Policy</b>	(Pages 97 - 108)
Report of the Director of Development, Enterprise & Communities (enclosed).	
<b>9 Safeguarding Training</b>	(Pages 109 - 118)
Report of the Director of Development, Enterprise & Communities (enclosed).	

Heather McManus  
CHIEF EXECUTIVE

Electronic agendas sent to Members of the General Licensing Committee Councillors John Rainsbury (Chair), Mike Nelson (Vice-Chair), Jane Bell, Mary Green, Harry Hancock, Ken Jones, James Marsh, Barbara Nathan, David Watts, Paul Wharton and David Wooldridge

The minutes of this meeting will be available on the internet at [www.southribble.gov.uk](http://www.southribble.gov.uk)

Forthcoming Meetings  
6.00 pm Tuesday, 28 November 2017 - Cross Room, Civic Centre, Leyland

<b>MINUTES OF</b>	<b>GENERAL LICENSING COMMITTEE</b>
<b>MEETING DATE</b>	<b>Tuesday, 19 September 2017</b>
<b>MEMBERS PRESENT:</b>	Councillors John Rainsbury (Chair), Mike Nelson (Vice-Chair), Jane Bell, Mary Green, Harry Hancock, Ken Jones, Paul Wharton and David Wooldridge
<b>OFFICERS:</b>	Tasneem Safdar (Senior Solicitor), Andy Glover (Interim Licensing Manager), Stephanie Fairbrother (Licensing Officer), Chris Ward (Licensing Officer) and Dianne Scambler (Democratic and Member Services Officer)
<b>OTHER MEMBERS AND OFFICERS:</b>	Councillor Jacqueline Mort (Cabinet Member for Public Health, Safety and Wellbeing), Denise Johnson (Director of Development, Enterprise and Communities) and Peter Haywood (Revenues Manager)
<b>PUBLIC:</b>	0

## **27 Apologies for Absence**

Councillors Jim Marsh and Barbara Nathan submitted their apologies.

## **28 Minutes**

RESOLVED (Unanimously): That the minutes of the General Licensing Committee meetings held at 2pm and 6pm on Tuesday 11 July 2017 be confirmed as a correct record for signing by the Chair.

## **29 Declarations of Interests**

There were no declarations of interests.

## **30 Exclusion of the Press and Public**

RESOLVED (Unanimously): That the press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

## **31 Driver Hearing - Application for a new driver's licence**

The Committee received a report regarding an application that had been made for a Hackney Carriage Driver's License. The applicant attended the meeting and addressed the Committee. The Committee also received representations from the Council's Licensing Manager.

The Committee RESOLVED (Unanimously): to grant the application. The

Committee found that on the balance of probabilities the driver was a fit and proper person to hold a Hackney Carriage Driver's Licence.

Councillor Mike Nelson joined the meeting at this point.

**Members of the Press and Public were allowed back in the room.**

**32 Implementation Update Plan**

The Committee received a report that provide an update of the Implementation Plan. The Plan had been amended on a regular basis since it was last presented to Members and the latest version was attached to the report.

Real progress continues to be made against the identified targets and of the 31 actions, 14 were currently rated as green (complete), 14 as Amber (in progress), with only 3 yet to commence.

In addition it was reported at the meeting that a further action, a review of current driver/operator licences against the new approved Convictions Policy had now been completed since the agenda was published.

Two targets that related to a review of the Licensing Team would be delayed until after the outcome of the Senior Management Restructure was known.

RESOLVED (Unanimously): That the report be noted.

**33 Forward Plan 2017/18**

The Committee received the latest version of the Forward Plan for 2017/18. It was noted that the Plan included a number of changes including the additional workload anticipated in October 2017, when the outcome of the six consultation exercises currently underway are known.

The end of September marks the half way period through the municipal year, therefore presenting an opportunity to evaluate the work already undertaken by the Committee to date. A number of tasks had already been completed and good progress was being made.

With the team of 2.5 officers already working at full capacity the Operator Accreditation Scheme had been deferred to March 2018.

Members were also made aware that Licensing Fees and Charges would be kept separate to all other fees and charges that were being reviewed as part of the budget setting process for 2018/19.

RESOLVED (Unanimously): That the report be noted.

**34 Performance Data**

Members considered a report setting out performance data relating to the work of the Licensing Section. In response to comments made at the previous meeting the team had improved its presentation and Members were pleased with the results and

thanked officers on the improvements. Diagrams provided context in the form of trend analysis and month by month comparisons, explanations of abbreviations were provided and examples given of premises visited.

In response to Members concerns that no test purchasing seemed to have taken place over the last three months, it was explained that this was most likely the result of a breakdown in communication between the County Council whose responsibility it was and the Licensing team. Every effort would be made to improve on this reporting.

RESOLVED (Unanimously): That the report be noted.

### **35 Updates - Taxi Trade Forum and Consultation Process**

The Committee received a report that updated Members on a range of recent Licensing activity that had taken place by the team that included a meeting of the Taxi Trade Forum and a number of consultations.

The Committee discussed lessons learnt from the Taxi Trade Forum that included better promotion of the event, a change of layout for future meetings and information as to the extensive measures taken by officers to ensure that they received as much trade and public feedback as possible on the consultation documentation.

Members also noted the date of the next Taxi Trade Forum on 26 October 2017.

RESOLVED (Unanimously): That the report be noted.

### **36 "Out of Town Drivers: Request for support for National Campaign**

The Committee received a report that update Members on a national campaign being co-ordinated by Transport for London with a view to addressing the issues arising from Hackney Carriage and Private Hire drivers who are licenced in one local authority being able to drive legitimately in other areas where they do not hold a licence.

The Council has recently consulted upon a proposed Intended Use Policy which will provide the authority with some control. However, as this is a national issue the suggested approach would provide Government with information to show that it is a real issue that needs addressing across the country.

The Committee all agreed to support this campaign and thought that the taxi trade of South Ribble would also welcome the initiative. Members considered it important that their involvement should be publicised across the borough.

RESOLVED (Unanimously): That the General Licensing Committee supports the national campaign and that the Chair of the Committee be delegated authority to sign a letter of support on behalf of the General Licensing Committee.

### **37 Constitutional Reform - Terms of Reference for General Licensing Committee and Panels**

The Committee considered a report that proposed an amendment to the Terms of Reference as set out in the Council's Constitution for the General Licensing

Committee. It also proposed new arrangements for the introduction of a more streamlined system for hearings of the Committee with the introduction of smaller Sub-Committees.

It was proposed that future hearings would be heard by a Sub-Committee Panel consisting of five members, drawn from the membership of the General Licensing Committee and would retain its political balance.

In order to ensure consistency of approach each Sub-Committee Panel would be chaired by either the Chair or Vice-Chair of the General Licensing Committee.

The proposed new Terms of Reference were provided in Appendix 2 of the report.

The new approach would enable members attendance at hearings to be pulled together more speedily and flexibly to prevent a backlog of hearings building up, as has occurred in the past. It would also bring the hearing process into line with the majority of its neighbouring authorities and free up the General Licensing Committee to strengthen their strategic role in the development of policy.

In response to concerns raised, Members were reassured that they would all continue to play a positive role in the practical work of the Committee and that every effort would be made to ensure that appointments to the Sub-Committee's would be spread evenly across all members.

It was proposed by Councillor Paul Wharton, seconded by Councillor Jane Bell to move Appendix 2 of the report subject to the following amendment that the Chair of the Sub-Committee Panel be chosen by the Panel and that the power to licence sex shops and sex cinemas be given to the General Licensing Committee. The motion was lost For 3: Against 5

**RESOLVED** (For 5: Against 2, 1 abstention): That Appendix 2, revised Terms of Reference for the General Licensing Committee be approved.

Chair

Date

# Agenda Item 4

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
<b>EQUALITIES LEGISLATION (1) - ACTIVATION OF ELEMENTS OF SECTION 165 AND 167 OF THE EQUALITIES ACT 2010 RELATING TO WHEELCHAIR USERS, ALONG WITH ASSOCIATED DOCUMENTATION</b>	<b>DENISE JOHNSON</b>

Is this report confidential?	No
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## 1. PURPOSE OF THE REPORT

- 1.1 Taking into account (i) the Equalities Impact Assessment (attached as Appendix 3) and (ii) the outcome of the consultation exercise undertaken throughout August 2017 (summarised in section 9 below), this report invites members to recommend the formal adoption of the relevant sections of the Equalities Act 2010 and the formal documentation relating to the enforcement of the above (as set out in appendices 1, 2 and 4-6).

## 2. RECOMMENDATIONS

Members are requested to:

- 2.1 forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of (a) sections 165 and 167 of the Equalities Act 2010; (b) the draft Medical Exemptions Policy (attached as Appendix 2); and (c) associated documentation consisting of the draft application form (attached as Appendix 4), draft letter confirming the granting of exemption (Appendix 5) and draft certificate / notice to be displayed by exempted drivers (Appendix 6);
- 2.2 agree to provide drivers of vehicles on the list of "designated vehicles" (attached as Appendix 1) with an opportunity to apply for a medical exemption in accordance with the Medical Exemptions Policy (Appendix 2); and
- 2.3 then publish the final version of the list of designated vehicles (Appendix 1).

## 3. 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

#### **4. BACKGROUND TO THE REPORT**

- 4.1 On 21 March 2017, members of the General Licensing Committee received a report advising them of the government's intention to activate from 6 April 2017 certain provisions of the Equalities Act 2010. Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e. "designated vehicles"), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs; to provide assistance to those passengers; and prohibits them from charging extra for their services.
- 4.2 The minutes of the meeting record that members noted the government's imminent activation of the legislation and requested that a further report be submitted to a future meeting of the committee. This report was presented to members at their meeting on 13 June 2017, and set out a provisional designated list, a proposed exemptions policy, and a proposed communication plan for drivers. Members agreed that this documentation should be subject to a consultation exercise, before the outcome of this consultation be presented in a further report.
- 4.3 This report confirms the outcomes of the consultation exercise carried out throughout the month of August 2017, and invites members to consider the proposed adoption of the relevant sections of the Equalities Act 2010 (and associated documentation) in light of the feedback received.

#### **5. LIST OF "DESIGNATED VEHICLES"**

- 5.1 Members are reminded that authorities who choose to implement the relevant sections of the Equalities Act 2010 in relation to wheelchair users are obliged to produce a list of "designated vehicles". The list should be clearly marked as 'designated for the purposes of section 165 of the Act', and should set out:
  - i) the details of the make and model of the vehicle, together with specifying whether the vehicle is a taxi or private hire vehicle;
  - ii) the name of the operator; and
  - iii) information about the size and weight of wheelchair that can be accommodated, and whether wheelchairs that are larger than a "reference wheelchair" can be accommodated.
- 5.2 The Council has produced a draft list of designated vehicles (attached as Appendix 1). All wheelchair-accessible vehicles which are licensed with the authority are included on it. With regard to paragraph 5.1(iii) above, it is proposed to adopt the stance that all vehicles adapted to carry any wheelchair are included on the list. This is to ensure that maximum support is provided to the widest number of customers who require a wheelchair accessible vehicle, and is felt to be in accordance with the Council's approach to licensing vehicles as indicated in the Licensing Policy.
- 5.3 Section 172 of the Equality Act 2010 enables vehicle owners who do not agree with their vehicles being on the designated list to appeal to the Magistrates Court.

#### **6. PROPOSED EXEMPTIONS POLICY AND ASSOCIATED DOCUMENTATION**

- 6.1 The Council acknowledges that some drivers may have a medical condition, a disability or physical condition which makes it impossible or unreasonably difficult for them to provide the sort of physical assistance which these duties require. The Act therefore allows licensing authorities to grant exemptions from the duties to individual drivers, requiring a local system to be put in place for assessing drivers and granting exemption certificates for those drivers who they consider should be exempt.

- 6.2 Consequently, a proposed Medical Exemptions Policy has been drafted and is attached as Appendix 2. This document sets out the procedure to be followed by a licensed driver who wishes to apply for an exemption from the requirements of the Equalities Act (as outlined in this report) on medical grounds.
- 6.3 An Equalities Impact Assessment is attached as Appendix 3.
- 6.4 The proposed policy requires applicants to complete a medical exemption form; a copy of the proposed form is attached as Appendix 4. The form requires input from a medical professional, who will identify the precise medical grounds on which the request for exemption is made. On receipt of the form, officers from South Ribble Borough Council will consider the application and determine whether or not to grant it. If contested, this decision could then be referred to the General Licensing Committee for a final decision to be made.
- 6.4 Should the application for medical exemption be granted, officers will write to the successful applicant and formally confirm that the exemption is in place. A copy of the letter proforma is attached as Appendix 5. The exempt driver will also be issued with a copy of the appropriate certificate / notice to be displayed in the vehicle at all times when the exempt driver is working. A model of the proposed notice of exemption (which complies with the requirements of the Equality Act 2010 (Taxis and Private Hire Vehicles) (Passengers in Wheelchairs – Notices of Exemption) Regulations 2017) is attached as Appendix 6.

## **7. NEXT STEPS**

- 7.1 If members are willing to recommend adoption of the legislation and Medical Exemptions Policy, it will be necessary to give drivers of vehicles on the designated list an opportunity to apply for an exemption should they require one. Officers will receive any applications and assess / process them accordingly. At that point, the final version of the designated list can be placed in the public domain.

## **8. CONSULTATION / COMMUNICATION PLAN**

- 8.1 The report presented to members on 13 June 2017 set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

### **8.2 Publicising the consultation exercise:**

- 8.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- Proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- at the start of the consultation process a letter was sent to all drivers, proprietors and operators licensed with the Borough outlining the consultation areas under consultation and advising them of how responses may be submitted;
- Similar letters were sent to other interested parties including local disability groups; and
- Social media / tweets were used to further circulate information about the consultation.

### **8.3 The consultation exercise itself:**

8.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.

8.3.2 Officers held 2 drop in sessions, each of 90 minutes, at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

## **9. OUTCOME OF THE CONSULTATION**

9.1 Despite the efforts to promote the consultation exercise, on balance few responses were received. However, the drop in sessions can be said to have been a success, with the following attendees:

<b>Date of drop in session</b>	<b>Persons attending</b>
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

9.2 A log of all the consultation responses has been compiled for this consultation exercise. For the purposes of this report, a summary of the main submissions is set out below:

<b>Source:</b>	<b>Date:</b>	<b>Issue:</b>	<b>Council response</b>
Driver 1	17.8.17	<ul style="list-style-type: none"><li>• concern that scooters are not wheelchairs (but members of the public can perceive them to be such);</li><li>• some wheelchairs are not easy to transport due to their size;</li><li>• worried that may have to go out of his way to collect a wheelchair user / fare not economical;</li><li>• concern that insurance policy will be invalidated for actions more than 1.5m away from vehicle</li></ul>	<p>Noted</p> <p>Noted</p> <p>Aim is to provide equal access to public transport for wheelchair users</p> <p>No need to go outside 1.5m area in meeting legal obligations</p>
Petition signed by 12 licensed drivers	31.8.17	Due consideration to be given to suitability of vehicles to be licensed as Wheelchair Accessible Vehicles (PH and HC). As wheelchairs vary in type, size and weight, consideration to be given to the maximum combined weight of the chair / passenger capable of being transported in any	

		vehicle, and the correct torque values for straps / webbing / clamp sizes, as these will vary dependant on type, size and style of wheelchair carried.	
Operator	31.8.17	Broadly agrees with the proposal	

9.3 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

## 10. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 10.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

### 10.2 Comments of the Monitoring Officer

In accordance with government guidelines, drivers should be allowed to apply for an exemption before the designated list is officially published. Any licences which have expired will need to be removed from the designated list.

Other implications:	
► Risk	By seeking to introduce a medical exemptions policy, this report supports licensed drivers who may be at risk of medical injury in providing mobility assistance. Any Safeguarding issues arising from mobility assistance will be addressed during the formal consultation period.
► Equality & Diversity	This report supports the Equalities agenda through the introduction of a list of “designated vehicles” and the criminal sanctions which underpin this.
► HR & Organisational Development	None
► Property & Asset Management	None
► ICT / Technology	None

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

Appendix 1 – list of “designated vehicles”

Appendix 2 - draft policy for medical exemption of licensed drivers in relation to the transportation of passengers in wheelchairs

Appendix 3 – EIA

Appendix 4 - draft application form

Appendix 5 – draft letter to be sent to all applicants whose application for exemption is successful

Appendix 6 – draft notice / certificate

SMT Member's Name: Denise Johnson  
Job Title: Director of Development, Enterprise & Communities

Report Author:	Telephone:	Date:
Peter Haywood	01772 625578	27 September 2017

# SRBC Wheelchair Accessible Vehicle List designated for for the purposes of Section 165 of the Equalities Act 2010

LIC_NUMBER	Reg No	Operator	veh make/model	current licence date	Expiry Date
PHV003	BX10 LGN	Andrew Wallbank Ltd.	Ford Transit	23/11/2016	01/06/2017
PHV039	PL09 SKV	Andrew Wallbank Ltd.	Ford Transit	23/11/2016	03/06/2017
HCV036	SF60 KZV	Avacob Ltd	Peugeot Expert	24/11/2016	02/06/2017
PHV086	PN07 AYT	Andrew Wallbank Ltd.	Renault Master	01/12/2016	12/06/2017
PHV035	FD10 CDO	Andrew Wallbank Ltd.	Vauxhall Movano	01/12/2016	06/06/2017
PHV119	PF60 PHA	Andrew Wallbank Ltd.	Ford Transit	13/12/2016	16/06/2017
PHV093	LV11 EFC	Andrew Wallbank Ltd.	Renault Master	13/12/2016	16/06/2017
PHV027	PL59 HKK	Andrew Wallbank Ltd.	Ford Transit	16/12/2016	24/06/2017
PHV091	OW08 XPF	Andrew Wallbank Ltd.	Renault Master	22/12/2016	29/06/2017
PHV139	BU56 FDJ	Andrew Wallbank Ltd.	LDV MAXUS	22/12/2016	04/07/2017
PHV002	EY60 VEB	Andrew Wallbank Ltd.	Vauxhall Movano	22/12/2016	05/07/2017
PHV084	VK60 UBO	Andrew Wallbank Ltd.	Vauxhall Movano	03/01/2017	02/07/2017

LIC_NUMBER	Reg No	Operator	veh make/model	current licence date	Expiry Date
PHV008	WA58 NYU	Andrew Wallbank Ltd.	Peugeot Boxer	10/01/2017	22/07/2017
PHV044	EY08 ZNC	Andrew Wallbank Ltd.	Vauxhall Movano	10/01/2017	26/07/2017
PHV120	MD60XFS	Andrew Wallbank Ltd.	Ford Transit 350	11/01/2017	13/07/2017
HCV037	SL60 FPZ	Avacab Ltd	Citroen Berlingo	17/01/2017	31/07/2017
PHV126	PO55 VNK	Andrew Wallbank Ltd.	Renault Trafic	17/01/2017	18/07/2017
PHV031	BX58 POF	Andrew Wallbank Ltd.	Ford Transit	23/01/2017	03/08/2017
PHV009	CN57 GJU	Andrew Wallbank Ltd.	Renault Master	23/01/2017	26/07/2017
PHV101	YJ07 KNR	Andrew Wallbank Ltd.	Renault Master	24/01/2017	26/07/2017
HCV139	BX10 LJY	Avacab Ltd	Ford Transit	27/01/2017	31/07/2017
HCV129	PN60 WMC	Avacab Ltd	Fiat Scudo	27/01/2017	31/07/2017
HCV061	PO11 WVK	Millers Citax Ltd	Citroen Berlingo	31/01/2017	05/08/2017
PHV087	P060 RFJ	Andrew Wallbank Ltd.	Ford Transit	03/02/2017	02/08/2017
PHV108	PN57 HZT	Andrew Wallbank Ltd.	Renault Master	10/02/2017	14/08/2017

LIC_NUMBER	Reg No	Operator	veh make/model	current licence date	Expiry Date
PHV034	SF58 JPX	Andrew Wallbank Ltd.	Renault Master	13/02/2017	24/08/2017
PHV010	PO59 GFE	Andrew Wallbank Ltd.	Renault Master	13/02/2017	31/08/2017
PHV020	VX08 AOO	Andrew Wallbank Ltd.	Vauxhall Movano	13/02/2017	17/08/2017
PHV104	PL59 HEV	Andrew Wallbank Ltd.	Vauxhall Vivaro	16/02/2017	17/08/2017
PHV106	PF60 PGE	Andrew Wallbank Ltd.	Ford Transit	16/02/2017	17/08/2017
PHV094	BX09 AOR	Andrew Wallbank Ltd.	Ford Transit	16/02/2017	21/08/2017
PHV015	PF60 PFX	Andrew Wallbank Ltd.	Ford Transit	16/02/2017	27/08/2017
PHV238	LV56 KZS	Andrew Wallbank Ltd.	Vauxhall Movano	17/02/2017	27/08/2017
PHV115	CA57 PNK	Andrew Wallbank Ltd.	Renault Master	17/02/2017	22/08/2017
PHV096	BX10 LGD	Andrew Wallbank Ltd.	Ford Transit	23/02/2017	01/09/2017
PHV045	BG60 YLR	Andrew Wallbank Ltd.	Renault Traffic	27/02/2017	11/09/2017
PHV225	HK05 OMH	Andrew Wallbank Ltd.	Renault Master	27/02/2017	07/09/2017
HCV029	HX11 NDD	Avacob Ltd	V W Caddy	03/03/2017	17/09/2017

LIC_NUMBER	Reg No	Operator	veh make/model	current licence date	Expiry Date
PHV107	MF10 HJE	Andrew Wallbank Ltd.	Renault Master	06/03/2017	12/09/2017
PHV049	BX11 HXG	Andrew Wallbank Ltd.	Ford Transit	07/03/2017	23/09/2017
HCV011	YG15 WKO	Avacab Ltd	Ford Tourneo	16/03/2017	30/09/2017
HCV049	SK63 HZE	Millers Citax Ltd	Citroen Berlingo	17/03/2017	18/09/2017
PHV052	BX10 LGE	Andrew Wallbank Ltd.	Ford Transit	17/03/2017	30/09/2017
PHV114	YD57 LTE	Andrew Wallbank Ltd.	Vauxhall Vivaro	20/03/2017	04/10/2017
HCV053	SK63 HZF	Millers Citax Ltd	Citroen Berlingo	20/03/2017	17/09/2017
PHV260	RE56 UYK	Andrew Wallbank Ltd.	Renault Master	20/03/2017	05/10/2017
HCV014	SJ58 LOH	Owner/Driver	Peugeot Expert E7	21/03/2017	30/09/2017
HCV057	SF11 NCY	Avacab Ltd	Peugeot Partner	21/03/2017	20/09/2017
PHV055	BX09 AHN	Andrew Wallbank Ltd.	Ford Transit	22/03/2017	12/10/2017
PHV051	BX10 LNR	Andrew Wallbank Ltd.	Ford Transit	24/03/2017	13/10/2017
HCV015	DK56 FUM	DB Cars	LDV MAXUS	30/03/2017	11/04/2017

LIC_NUMBER	Reg No	Operator	veh make/model	current licence date	Expiry Date
PHV271	AY55 DJD	Andrew Wallbank Ltd.	Renault Master	31/03/2017	20/10/2017
PHV016	MF10 HGJ	Andrew Wallbank Ltd.	Renault Master	31/03/2017	25/10/2017
HCV024	SF60 KVZ	Avacab Ltd	Peugeot Partner	31/03/2017	26/07/2017
PHV032	MF10 HLW	Andrew Wallbank Ltd.	Renault Master	06/04/2017	17/10/2017
PHV063	SG05 DTK	Andrew Wallbank Ltd.	V W LT35	06/04/2017	20/10/2017
PHV071	PL59 HKJ	Andrew Wallbank Ltd.	Ford Transit	06/04/2017	31/10/2017
PHV170	PL06 SGX	Andrew Wallbank Ltd.	Renault Master	06/04/2017	26/10/2017
HCV030	SK63 HZD	Millers Citax Ltd	Citroen Berlingo	07/04/2017	06/10/2017
PHV005	PL59 HKM	Andrew Wallbank Ltd.	Ford Transit	10/04/2017	31/10/2017
HCV025	YF08 WRE	Avacab Ltd	Ford Transit	11/04/2017	31/10/2017
PHV273	PO56 FTD	Andrew Wallbank Ltd.	Renault Master	12/04/2017	31/10/2017
PHV028	MT61 ZSV	Andrew Wallbank Ltd.	Renault Master	12/04/2017	03/11/2017
PHV073	PF60 PFV	Andrew Wallbank Ltd.	Ford Transit	12/04/2017	31/10/2017

LIC_NUMBER	Reg No	Operator	veh make/model	current licence date	Expiry Date
PHV080	SV08 BXD	Andrew Wallbank Ltd.	Renault Master	12/04/2017	31/10/2017
PHV274	GU07 OKJ	Andrew Wallbank Ltd.	Fiat Ducato	13/04/2017	01/11/2017
PHV013	DS11 XNJ	Andrew Wallbank Ltd.	Renault Master	28/04/2017	19/06/2017
PHV023	KM13 JKY	Avacab Ltd	Citroen CA Picasso	03/05/2017	08/11/2017
HCV033	SH58 HMC	Avacab Ltd	Peugeot Expert E7	08/05/2017	15/11/2017
HCV056	SK63 HZG	Millers Citax Ltd	Citroen Berlingo	08/05/2017	11/11/2017
PHV092	MJ11 WAO	Andrew Wallbank Ltd.	Vauxhall Vivaro	09/05/2017	08/11/2017
PHV203	SG05 DTV	Andrew Wallbank Ltd.	Volkswagen LT35	11/05/2017	30/11/2017
PHV085	PL09 SKX	Andrew Wallbank Ltd.	Ford Transit	11/05/2017	19/11/2017
PHV072	PL59 HFD	Andrew Wallbank Ltd.	Ford Transit	11/05/2017	20/11/2017
HCV066	FY14 DFD	Owner/Driver	Volkswagen Caddy	22/05/2017	21/11/2017
HCV008	SJ56 LRA	Millers Citax Ltd	Peugeot E7	22/05/2017	30/11/2017
PHV111	PL59 HFE	Andrew Wallbank Ltd.	Ford Transit	22/05/2017	22/11/2017

LIC_NUMBER	Reg No	Operator	veh make/model	current licence date	Expiry Date
PHV117	EY60 VCO	Andrew Wallbank Ltd.	Vauxhall Movano	23/05/2017	29/11/2017

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## Appendix 2

### Procedure Number:

#### **Policy – Medical Exemption – support for wheelchair users**

Disabled people (including wheelchair users) have important rights under the Equality Act 2010, which consolidates and replaces previous discrimination legislation. The Act places a duty on Hackney Carriage and Private Hire drivers to carry and support wheelchair users (in the form of “mobility assistance”) at no extra cost. The legislation allows for drivers that cannot meet these obligations to carry a certificate of exemption confirming they have permission to refuse on medical grounds.

The relevant legislation is set out in sections 165 and 167 of the Equality Act 2010. Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs; to provide assistance to those passengers; and prohibits them from charging extra for their services.

Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible taxis and private hire vehicles. The duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such “mobility assistance” as is reasonably required.

The Act goes on to define “mobility assistance” as assistance:

- to enable the passenger to get into or out of the vehicle;
- if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair; to load the passenger’s luggage into or out of the vehicle; and
- if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

Any driver licensed with South Ribble Borough Council who wishes to apply for a medical exemption from the above requirements should follow the procedure set out below:

- i) An applicant must complete the application form for a medical exemption, supplying all relevant information (including that required from a medical professional);

- ii) Any fee to be charged by a medical professional for completion of the appropriate form must be borne by the applicant and not this authority;
- iii) Upon receipt of the completed application, South Ribble Borough Council will consider the request;
- iv) Should the application be granted, the Council will issue (i) a letter / certificate confirming the granting of the exemption and (ii) a notice which the driver must display in the vehicle during all his / her working hours; and
- v) A granted application will be valid for no longer than a 12 month period, after which time it will expire and a new application will need to be submitted by the driver.

Drivers whose application for an exemption is refused by South Ribble Borough Council may appeal to the Magistrates Court against this decision.

This Policy was adopted by General Licensing Committee on XX XXXX 2017

Signed:

A handwritten signature in black ink, appearing to read "A. Glover". The signature is written in a cursive style with a vertical line extending downwards from the end of the "e".

Interim Licensing Manager

XX XXXX 2017

## Appendix 3

### Equality Impact Assessment

#### Introduction

An Equality Impact Assessment (EIA) is required to ensure that equality is placed at the centre of policy development and review, as well as service delivery. The purpose of this EIA is to systematically analyse the likely impact of a service, policy or proposals on different community groups, and how the needs of such groups have been taken into account in developing those proposals.

The EIA can anticipate and recommend ways to avoid any discriminatory or negative consequences for a particular group, on the grounds of any protected characteristic. It provides the opportunity to demonstrate the potential benefits for equality target groups arising from a proposed policy or project.

The need for an EIA stems from the general duty placed on public authorities to eliminate unlawful discrimination in carrying out functions, and promote equality of opportunity. This is outlined in the Equality Act 2010, with specific public sector duties in place from April 2011.

<b>1. Name of Policy or Service (existing or proposed)</b>	
Policy for medical exemption of licensed drivers following activation of elements of section 165 and 167 of the Equalities Act 2010 (relating to the transportation of wheelchair users).	
<b>2. Responsible Manager</b>	
Peter Haywood	
<b>3. Date EIA completed</b>	<b>Review date</b>
16 May 2017	
<b>4. Description and aims of policy / service (including relevance to equalities)</b>	
<p>The government has stated its intention to make public transport more accessible for all members of the community, including disabled people. Accordingly, from 6 April 2017 it wants similar protections to apply to wheelchair users as currently exist for visually-impaired people who are supported by assistance dogs. This will be achieved by activating the remaining parts of sections 165 and 167 of the Equality Act 2010. Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e. “designated vehicles”), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs; to provide assistance to those passengers; and prohibits them from charging extra for their services. However, the Council acknowledges that not all licensed drivers will be medically fit to provide assistance to wheelchair users as required by legislation. This Policy sets out how an appropriate exemption may be sought from and granted by the local authority.</p>	
<b>5. Who are the stakeholders?</b>	
Council officers	

All Councillors including in particular the members of the Council's General Licensing Committee

All those who have or wish to have (i) Hackney Carriage drivers or vehicle licences, or (ii) Private Hire operator and driver licences

Various teams within the Council including Legal Services and Licensing Officers

Other Borough Councils who may be consulted in respect of good practice

All local organisations with an interest in supporting disabled users of public transport.

## **6. What outcomes do we want to achieve?**

Appropriate access to Hackney Carriage and Private Hire vehicles for wheelchair users, balanced against the need to exempt licensed drivers with clearly-identified relevant medical conditions from the requirements of the legislation.

## **7. How will performance be measured?**

Number of drivers granted exemption from the legislative requirements

## **8. Brief summary of research and background data**

There are 267 drivers currently licensed with the authority, and around 240 licensed vehicles. It is estimated that around one-third of these vehicles are wheelchair –accessible to some degree.

The 2011 Census confirms that the overall population of South Ribble is 109057. It is not known how many of these are disabled, although the Census confirms that by 2039 the population aged 65 or over in South Ribble is projected to increase to 32,300. Many of these will be wheelchair users.

## **9. Methods and outcome of consultation**

No consultation has yet been undertaken. Should members wish, local disability groups (such as the Chorley and South Ribble Disability Forum) could be approached for their views on the proposed Exemptions Policy.

## **10. Results of initial screening**

The following questions have been considered in order to evaluate the various equality groups:-

**Age – Is there any concern that these proposals could cause differential impact on the grounds of age?**

As stated above, the population of South Ribble is expected to age in the coming years, with the likely result of an increase demand for wheelchair accessible vehicles.

**Disability – Is there any concern that these proposals could cause differential impact on the grounds of disability? Disability is recognised under the Equality Act as ‘a physical or mental impairment which has a substantial and long term effect on a person’s ability to carry out normal day to day activities.’**

If adopted, the legislative provision would provide real support for disabled groups in terms of promoting their access to public transport. The purpose of the Exemptions Policy is to ensure that

licensed drivers with clearly-identified relevant medical conditions are exempted from the obligation to provide reasonable assistance (when this may be beyond their physical capability).

**Gender Reassignment** – *Is there any concern that these proposals could cause differential impact on the grounds of gender reassignment? The Equality Act recognises this where a person is proposing to undergo, is undergoing, or has undergone a process (or part of a process) for changing sex.*

N/a

**Marriage / Civil Partnership** – *Is there any concern that these proposals could cause differential impact on the grounds of marriage or civil partnership? Under the Equality Act, no such protection exists for single or unmarried people.*

N/a

**Pregnancy / Maternity** – *Is there any concern that these proposals could cause differential impact on the grounds of pregnancy or maternity?*

N/a

**Race** – *Is there any concern that these proposals could cause differential impact on the grounds of race? Race is recognised under the Equality Act as a person's skin colour, nationality or ethnic origin.*

There is no information available on the number of wheelchair users amongst ethnic minority groups

**Sex** – *Is there any concern that these proposals could cause differential impact on the grounds of gender? Including men, women and transgender people.*

There is no information available on the number of wheelchair users amongst genders.

**Sexual Orientation** – *Is there any concern that these proposals could cause differential impact on the grounds of sexuality? Including heterosexual, gay, lesbian and bisexual people.*

There is no information on the prevalence of being a wheelchair user given one's sexual orientation.

**Religion or belief** – Is there any concern that these proposals could cause differential impact on the grounds of religion or faith? All faiths recognised in the European Convention of Human Rights are included.

N/a

A commentary has been provided for each policy where appropriate – see Appendix A

## **11. Links with the Council's Safeguarding Policy (please outline any implications and actions that need to be taken)**

Safeguarding matters relating to users of licensed hackney carriage / private hire vehicles (whether disabled or not) is a prime concern for the Licensing Authority.

## **12. Decisions and / or recommendations (including supporting rationale)**

Members are asked to consider whether they wish to implement the proposed Exemption Policy.

**13. Is an Equality Action Plan required?**

No – see commentary in Appendix A below

## Appendix A – Results of initial screening

Policy / service	Protected Characteristics									Commentary
	Age	Disability	Gender reassignment	Marriage / civil p'ship	Pregnancy / maternity	Race	Religion or belief	Sex	Sexual Orientation	
Activation of elements of section 165 and 167 of the Equalities Act 2010 relating to wheelchair users –implications for Licensing Authorities	+	+	O	O	O	O	O	O	O	

Symbol	Impact
+	Positive
O	Neutral / Negligible
-	Negative
P	Potential issue

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## Appendix 4

### Procedure Number:

#### CARRIAGE OF WHEELCHAIRS AND PROVISION OF "MOBILITY ASSISTANCE":

#### EXEMPTION APPLICATION FORM

Applicant Details	
Licence Number	
Title	
Surname	
Forename(s)	
Home Address	
Postcode	
Tel No	
Reason for Exemption	
<p>From April 2017, the government is providing greater support for wheelchair users on public transport by activating the remaining parts of sections 165 and 167 of the Equality Act 2010. Section 167 of the Act provides licensing authorities with the powers to make lists of wheelchair accessible vehicles (i.e. "designated vehicles"), and section 165 of the Act then requires the drivers of those vehicles to carry passengers in wheelchairs; to provide assistance to those passengers (eg loading wheelchairs with or without the passenger seated in it, carrying luggage etc); and prohibits them from charging extra for their services. However, to enable drivers with certain medical conditions that impact on these duties to drive or continue to drive Hackney Carriage and Private Hire Vehicles, the Act includes provisions for drivers to be exempted from these requirements on medical grounds. The Licensing Authority is responsible for issuing exemption certificates and needs to be satisfied that it is appropriate to do so on medical grounds.</p>	

<b>Vehicle Details</b>	
Make / model	
Registration Number	
Vehicle licence number	
<p>In determining whether to issue an exemption certificate the Licensing Authority will take into consideration the physical characteristics of the Hackney Carriage or Private Hire Vehicle.</p> <p>Please tick as appropriate:</p> <p>You drive vehicles that have NO partition between the driver and the passenger compartment; or</p> <p>You drive vehicles that have a partition between the driver and the passenger compartment</p>	
<b>Nature of Medical Condition</b>	
<p>Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist (consultant) medical practitioner. It is therefore suggested that evidence be sought from a specialist as to the severity of the condition.</p> <p>The driver's General Practitioner should only be approached as a last resort.</p> <p>Please provide details of the medical condition you have:</p>	
<b>Declaration</b>	
<p>I declare that all the information provided on this form is true to the best of my knowledge. I understand that the grant of an exemption from the legal requirement to support a wheelchair user in a licensed Hackney Carriage or Private Hire Vehicle can be refused if any statements are subsequently found to be false. I undertake to keep the Council informed of any changes to any details provided on this form. I understand that a failure to do so will constitute a breach of the conditions under which exemption may be granted and, as such, may lead to the withdrawal of exemption, if granted.</p>	
Applicant Signature	
Date	

<b>Medical Evidence (For completion by a Medical Practitioner)</b>	
In your opinion, does the person named above have a medical condition that will impact on the person's ability to carry / load a wheelchair into a licensed vehicle or provide "mobility assistance" (eg including the assisting of a person into a vehicle whilst seated in a wheelchair, carrying luggage etc)?	Yes / No
If Yes, please provide details in the space below and attach any relevant medical reports	
In your opinion, is this person's medical condition so severe that he/she should be exempt from the obligations set out in the above section?	
Details of Medical Practitioner	
Name	
Signature	
Date	
Practice/Surgery/Hospital stamp	

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Date: \_\_\_\_\_  
Your ref: \_\_\_\_\_ Our ref: [OUR REF] \_\_\_\_\_  
  
Please ask for: Mr A Glover  
Extension: 5330 Direct Dial Tel: 01772 625330  
Fax: \_\_\_\_\_ email: [aglover@southribble.gov.uk](mailto:aglover@southribble.gov.uk)



[ADDRESS]  
[ADDRESS]  
[ADDRESS]  
[ADDRESS]  
[ADDRESS]

Civic Centre, West Paddock,  
Leyland, Lancashire PR25 1DH  
Tel: 01772 421491  
Fax: 01772 622287  
email: [info@southribble.gov.uk](mailto:info@southribble.gov.uk)  
website: [www.southribble.gov.uk](http://www.southribble.gov.uk)

## Appendix 5

Dear

### RE: Exemption from the duty to carry wheelchairs and provide “mobility assistance” to wheelchair users

I refer to your application dated [ ] in which you asked South Ribble Borough Council to exempt you from carrying wheelchairs in your vehicle, as well as providing “mobility assistance” to wheelchair users. For the purposes of the Equalities Act 2010, “mobility assistance” includes assistance:

- to enable the passenger to get into or out of the vehicle;
- to enable the passenger to get into and out of the vehicle while in the wheelchair (should the passenger wish to remain in the wheelchair during the journey);
- to load the passenger’s luggage into or out of the vehicle; and
- to load the wheelchair into or out of the vehicle (should the passenger not wish to remain in the wheelchair during the journey).

After careful consideration, the Licensing Authority has decided to accept your application for an exemption, on medical grounds, from the duties imposed on Taxi and PHV drivers under section 165 of the Equality Act 2010 in relation to wheelchair users.

Please find attached your Notice of Exemption.

The exemption is only valid when driving [add as appropriate – any vehicle/vehicles without a fixed partition OR vehicles with a fixed partition] / [vehicle registration number].

[ ]

It is an offence to refuse to support wheelchair users in accordance with the legislation when not driving the vehicles specified in the certificate.

The exemption expires on [insert date – 12 months after date of granting].

You are required by law to display your Notice of Exemption sticker by affixing it to the nearside of the windscreen of your vehicle (so that the front of your notice faces outwards). If other drivers use the vehicle at any other time, it is your responsibility to remove the notice from the vehicle. **The exemption only applies to you.**



It is a criminal offence, punishable in the Magistrates' Court by a fine of up to £5,000 or, on indictment, by up to two years imprisonment and/or a fine, to alter, lend or allow another person to use your Notice of Exemption.

If you have any queries or require further advice please contact [Phone Number].

Yours sincerely,



Andy Glover  
Interim Licensing Manager

Appendix 6

FORM OF FRONT OF NOTICE OF EXEMPTION IN ENGLAND AND SCOTLAND

Section 166 Equality Act 2010	
<h1>Notice Of Exemption</h1>	
Name of licensing authority	
_____ Driver's name	
_____ Licence No.	
<p><b>The person named above is exempt from the duties required by section 165 of the Equality Act 2010.</b></p>	
This notice expires _____ 20 _____	
<b>Ew</b>	

# Attention

Only the driver named overleaf may display this notice when driving the vehicle. The notice may also remain on display when the vehicle is parked provided it has been driven by, and is to be driven by, the named driver. Otherwise the named driver must remove the notice.

# Agenda Item 5

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017



September 2017

TITLE	REPORT OF
<b>EQUALITIES LEGISLATION (2) – DRAFT POLICY FOR MEDICAL EXEMPTION FROM REQUIREMENT TO CARRY ASSISTANCE DOGS</b>	DENISE JOHNSON

Is this report confidential?	No
------------------------------	----

## 1. PURPOSE OF THE REPORT

- 1.1 Taking into account (i) the Equalities Impact Assessment (attached as Appendix 2) and (ii) the outcome of the consultation exercise undertaken during the month of August 2017 (summarised in section 9 below), this report invites members to recommend the adoption of provisions of the Equalities Act 2010 relating to the transportation of visually-impaired passengers and assistance dogs, along with documentation relating to the enforcement of this legislation (as set out in appendices 1 and 3-5).

## 2. RECOMMENDATIONS

Members are requested to forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of:

- 2.1 sections 168-173 of the Equalities Act 2010;
- 2.2 the draft Medical Exemptions Policy (attached as Appendix 1); and
- 2.4 the draft application form (attached as Appendix 3), draft letter confirming the granting of exemption (Appendix 4) and draft certificate / notice to be displayed by exempted drivers (Appendix 5).

## 3. 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

#### **4. BACKGROUND TO THE REPORT**

- 4.1 At their meeting on 13 June 2017, members of the General Licensing Committee received a report that sought adoption of formal documentation relating to the enforcement of equalities legislation regarding the transporting of visually-impaired passengers and assistance dogs. The report also outlined the current licence conditions relating to the transportation of assistance dogs and set out the findings of a test purchasing exercise held on 5 April 2017. The Committee agreed that there should be a consultation exercise with relevant stakeholders on the draft Medical Exemptions Policy and associated documentation with a view to bringing a report back to a future Committee meeting for a formal decision to recommend the formal adoption of Sections 168-173 of the Equalities Act 2010 by full Council.
- 4.2 This report seeks to update members on the outcome of the consultation exercise and invites members to consider the proposed adoption of the relevant sections of the Equalities Act 2010 (and associated documentation) in light of the feedback received.

#### **5. LEGISLATIVE FRAMEWORK**

- 5.1 Disabled people (including guide dog owners and other blind or partially sighted people) have important rights under the Equality Act 2010, which consolidates and replaces previous discrimination legislation. The Act places a duty on Hackney Carriage and Private Hire drivers to carry guide dogs and other assistance dogs at no extra cost. The legislation allows for drivers that cannot carry assistance dogs to carry a certificate of exemption confirming they have permission to refuse on medical grounds. (It is not appropriate to decline to transport an assistance dog on grounds of religion).
- 5.2 Sections 168 to 171 of the Equality Act 2010 deal with the carriage of guide dogs and other assistance dogs and England and Wales. In summary:
  - a) Hackney Carriage drivers must (unless they have a medical exemption):
    - carry the assistance dog and allow it to remain with their owner; and
    - not charge extra for carrying an assistance dog.
  - b) Private Hire vehicle drivers (unless they have a medical exemption):
    - must carry the assistance dog and allow it to remain with their owner;
    - cannot refuse a booking, or to carry out a booking, due to someone having an assistance dog with them; and
    - cannot charge extra for carrying an assistance dog.
- 5.3 As well as the duty to carry assistance dogs, taxi and minicab drivers must also ensure that they do not discriminate against a person because of their disability including vision loss. They must not treat a disabled person less favourably or fail to make a "reasonable adjustment" to their service. Such reasonable adjustments may include:
  - the driver guiding a blind or partially sighted customer to the vehicle, and assisting with entry into the vehicle; and
  - at the customer's destination, assisting the customer to exit from the car and guiding them to a safe location/destination point before departing.

## **6. EXEMPTION CERTIFICATES**

- 6.1 A driver is entitled to obtain an exemption certificate if they have a medical condition that is made worse by contact with dogs, such as severe asthma. Exemption certificates are issued by the licensing authority, and having an exemption certificate means that the driver does not have to carry an assistance dog.
- 6.2 A driver who has been given an exemption must display a yellow 'Notice of Exemption' notice on the windscreen of their vehicle. The front of the notice will have the letters 'ED' (Exemption Dogs) and will show the driver's licence number. The form of the exemption notice must comply with the Disability Discrimination Act 1995 (Private Hire Vehicles) (Carriage of Guide Dogs etc.) (England and Wales) Regulations 2003, although it is anticipated that these regulations will be updated at some stage to reflect the passing of the Equalities Act 2010.
- 6.3 There are no exemptions from the carriage of guide dogs for taxi or minicab operators. An exemption certificate is specific to a named driver of a specified vehicle. The certificate should not be left in a vehicle when the named driver is not using it. It is recommended that operators ensure they have drivers available who are not exempt from carrying assistance dogs.
- 6.4 It is proposed that, on receipt of an application for medical exemption from the obligation to carry assistance dogs, the initial decision as to whether to grant the application should be made by officers, with a driver who so wishes having the right to refer the matter to the General Licensing Committee for a final decision. In the event of a refusal by the Committee, there would then be a right of appeal to the Magistrates Court.

## **7. CURRENT POSITION IN SOUTH RIBBLE BOROUGH COUNCIL**

- 7.1 The Council has not previously adopted sections 168-173 of the Equalities Act 2010. As a result, members are requested to agree to recommend to full Council that formal adoption of this legislation should take place. However, 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."

[Please note – it is proposed to update the reference to the Disability Discrimination Act with a reference to the Equalities Act 2010].

- ii) Private Hire vehicle conditions

Paragraph 20 – as above

- iii) Private Hire operator conditions

Paragraph 15 – "Every proprietor, driver and operator of a licensed private hire vehicle shall ensure that guide dogs are carried within the passenger compartment of the vehicle on request."

Operators are reminded of their responsibilities under the Equalities Act 2010, and are advised that discrimination could seriously and adversely impact upon their operating licence."

- 7.2 However, this Council has not previously had a formal medical exemption policy in place, under which the medical fitness of drivers who claim that they cannot transport an assistance dog (eg due to an allergy) or provide reasonable adjustments (such as help with access to the vehicle) can be assessed.
- 7.3 Accordingly, a draft policy to implement this is attached to this report as Appendix 1. Members of the Committee are requested to consider this draft with a view to its formal adoption, following consultation. An accompanying Equalities Impact Assessment is attached as Appendix 2.

7.4 Also attached for members' consideration following consultation are:

- Appendix 3 – a draft application form which drivers seeking a medical exemption will be required to submit;
- Appendix 4 sets out a draft letter which will be sent to those applicants whose medical condition is recognised and who are consequently exempted;
- Appendix 5 sets out a draft certificate which – if adopted – exempted drivers will be required to carry at all times when acting as a licensed driver.

## **8. CONSULTATION / COMMUNICATION PLAN**

8.1 The report presented to members on 13 June set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

8.2 Publicising the consultation exercise:

8.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- Proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- Around the start of August 2017 a letter was sent to all drivers, proprietors and operators licensed with the Borough outlining the consultation areas under consultation and advising them of how responses may be submitted;
- Similar letters were sent to other interested parties including local disability groups; and
- Social media / tweets were used to further circulate information about the consultation.

8.3 The consultation exercise itself:

8.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.

8.3.2 Officers held 2 drop in sessions, each of 90 minutes, at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

## **9. OUTCOME OF THE CONSULTATION**

9.1 Despite the efforts to promote the consultation exercise, on balance few responses were received. However, the drop in sessions can be said to have been a success, with the following attendees:

Date of drop in session	Persons attending
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

9.2 A log of all the consultation responses has been compiled for this consultation exercise. For the purposes of this report, a summary of the main submissions is set out below:

Source:	Date:	Issue:	Council response
Driver 1	17.8.17	Need separate insurance for this. Also would put driver in dangerous position if entering people's homes	Enquiries have not confirmed that insurance is invalidated above 1.5m from the vehicle, as suggested at the Taxi Trade Forum. In any event, the driver can stay within this distance from his vehicle and still meet his legal obligations
Petition of 12 drivers	31.8.17	Implementation of refusal (unless accompanied by a valid medical certificate) is a good thing, but many assistance dogs are poorly groomed. Therefore the levy for cleaning (eg excess dog hair, odors, fouling etc) should be extended in the fare table to include all passenger groups, with the hirer / carer made aware of this before the journey commences.	
Operator	31.8.17	Broadly supportive of the proposal	

9.3 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

## 10. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 10.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

### 10.2 Comments of the Monitoring Officer

The legal implications have been identified within the body of the report. The adoption of the relevant legislation, along with draft policies and procedures, would ensure the Council's compliance with obligations under the Equalities Act 2010.

Other implications:	
► Risk	See the Legal comments above.

► <b>Equality &amp; Diversity</b>	This report supports the Council's contribution to the Equalities agenda through the formal adoption of legislative provisions (including criminal sanctions) and the introduction of formal documentation which underpins this.
► <b>HR &amp; Organisational Development</b>	None
► <b>Property &amp; Asset Management</b>	None
► <b>ICT / Technology</b>	None

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

- Appendix 1 – draft policy for medical exemption (carriers of assistance dogs)
- Appendix 2 – EIA
- Appendix 3 - draft application form
- Appendix 4 – draft letter to be sent to all applicants whose application for exemption is successful
- Appendix 5 – draft notice / certificate

SMT Member's Name: Denise Johnson

Job Title: Director of Development, Enterprise & Communities

Report Author:	Telephone:	Date:
Peter Haywood	01772 625578	27 September 2017



## APPENDIX 1

### Procedure Number:

#### **Policy – Medical Exemption for carriage of assistance dogs**

Disabled people including guide dog owners and other blind or partially sighted people have important rights under the Equality Act 2010, which consolidates and replaces previous discrimination legislation. The Act places a duty on Hackney Carriage and Private Hire drivers to carry guide and other assistance dogs at no extra cost. The legislation allows for drivers that cannot carry assistance dogs to carry a certificate of exemption confirming they have permission to refuse on medical grounds. (It is not appropriate to decline to transport an assistance dog on grounds of religion).

Sections 168 to 171 of the Equality Act 2010 deal with the carriage of guide dogs and other assistance dogs and England and Wales. In summary:

- a) Hackney Carriage drivers must (unless they have a medical exemption):
  - carry the assistance dog and allow it to remain with their owner; and
  - not charge extra for carrying an assistance dog.
- b) Private hire vehicle drivers (unless they have a medical exemption):
  - must carry the assistance dog and allow it to remain with their owner;
  - cannot refuse a booking, or to carry out a booking, due to someone having an assistance dog with them; and
  - cannot charge extra for carrying an assistance dog.

Any driver licensed with South Ribble Borough Council who wishes to apply for a medical exemption should follow the procedure set out below:

- i) An applicant must complete the application form for a medical exemption, supplying all relevant information (including that required from a medical professional);
- ii) Any fee to be charged by a medical professional for completion of the appropriate form must be borne by the applicant and not this authority;
- iii) Upon receipt of the completed application, South Ribble Borough Council will consider the request;
- iv) Should the application be granted, the Council will issue a letter / certificate confirming the granting of the exemption and a notice which the driver must display in the vehicle during all his / her working hours;

- v) A granted application will be valid for no longer than a 12 month period, after which time it will expire and a new application will need to be submitted by the driver;
- vi) Drivers whose application for an exemption is refused may appeal to the Magistrates Court against this decision.

This procedure was adopted by General Licensing Committee on XX XXXX 2017

Signed:

A handwritten signature in black ink, appearing to read "A. Glover". The signature is written in a cursive, flowing style.

Interim Licensing Manager

XX XXXX 2017

## APPENDIX 2 Equality Impact Assessment

### Introduction

An Equality Impact Assessment (EIA) is required to ensure that equality is placed at the centre of policy development and review, as well as service delivery. The purpose of this EIA is to systematically analyse the likely impact of a service, policy or proposals on different community groups, and how the needs of such groups have been taken into account in developing those proposals.

The EIA can anticipate and recommend ways to avoid any discriminatory or negative consequences for a particular group, on the grounds of any protected characteristic. It provides the opportunity to demonstrate the potential benefits for equality target groups arising from a proposed policy or project.

The need for an EIA stems from the general duty placed on public authorities to eliminate unlawful discrimination in carrying out functions, and promote equality of opportunity. This is outlined in the Equality Act 2010, with specific public sector duties in place from April 2011.

<b>1. Name of Policy or Service (existing or proposed)</b>	
Policy for medical exemption from requirement to transport assistance dogs in licensed Hackney Carriage and Private Hire vehicles	
<b>2. Responsible Manager</b>	
Peter Haywood	
<b>3. Date EIA completed</b>	<b>Review date</b>
15 May 2017	
<b>4. Description and aims of policy / service (including relevance to equalities)</b>	
<p>The government has stated its intention to make public transport more accessible for all members of the community, including disabled people. As part of this process, since 2010 the Equalities Act of that year has placed a duty on hackney carriage and private hire drivers to carry guide and other assistance dogs at no extra cost. Drivers that cannot carry assistance dogs are obliged to carry a certificate of exemption confirming they have permission to refuse on medical grounds.</p> <p>This Policy aims to introduce an appropriate process under licensed drivers can apply for exemption from this legal requirement.</p>	
<b>5. Who are the stakeholders?</b>	
<p>Council officers</p> <p>All Councillors including in particular the members of the Council's General Licensing Committee</p> <p>All those who have or wish to have (i) Hackney Carriage drivers or vehicle licences, or (ii) Private Hire operator and driver licences</p>	

Various teams within the Council including Legal Services and Environmental Health (incorporating Licensing)

Other Borough Councils who may be consulted in respect of good practice

All local organisations with an interest in supporting disabled users of public transport.

## **6. What outcomes do we want to achieve?**

Appropriate support for disabled users of public transport (specifically Hackney Carriage and Private Hire drivers).

## **7. How will performance be measured?**

Number of drivers exempted

Number of drivers trained in the legislative provisions, if adopted

Number of drivers subjected to enforcement action for non-compliance

## **8. Brief summary of research and background data**

There are 267 drivers currently licensed with the authority, and around 240 licensed vehicles.

The 2011 Census confirms that the overall population of South Ribble is 109057. It is not known how many of these are disabled, although the Census confirms that by 2039 the population aged 65 or over in South Ribble is projected to increase to 32,300. A proportion of these will be visually-impaired and supported by assistance dogs.

## **9. Methods and outcome of consultation**

No consultation has yet been undertaken. Should members wish, local disability groups (such as the Chorley and South Ribble Disability Forum) could be approached for their views on the introduction of a medical exemption policy.

## **10. Results of initial screening**

The following questions have been considered in order to evaluate the various equality groups:-

**Age – Is there any concern that these proposals could cause differential impact on the grounds of age?**

As stated above, the population of South Ribble is expected to age in the coming years, with the likely result of an increased demand for visually-impaired residents to access public transport.

**Disability – Is there any concern that these proposals could cause differential impact on the grounds of disability? Disability is recognised under the Equality Act as ‘a physical or mental impairment which has a substantial and long term effect on a person’s ability to carry out normal day to day activities.’**

If adopted, the Policy would ensure that only those drivers with established and verified medical conditions were exempted from transporting visually-impaired residents in locally-licensed vehicles.

**Gender Reassignment** – *Is there any concern that these proposals could cause differential impact on the grounds of gender reassignment? The Equality Act recognises this where a person is proposing to undergo, is undergoing, or has undergone a process (or part of a process) for changing sex.*

N/a

**Marriage / Civil Partnership** – *Is there any concern that these proposals could cause differential impact on the grounds of marriage or civil partnership? Under the Equality Act, no such protection exists for single or unmarried people.*

N/a

**Pregnancy / Maternity** – *Is there any concern that these proposals could cause differential impact on the grounds of pregnancy or maternity?*

N/a

**Race** – *Is there any concern that these proposals could cause differential impact on the grounds of race? Race is recognised under the Equality Act as a person's skin colour, nationality or ethnic origin.*

There is no information available on the number of visually-impaired residents amongst ethnic minority groups.

**Sex** – *Is there any concern that these proposals could cause differential impact on the grounds of gender? Including men, women and transgender people.*

There is no information available on the gender ratio of the number of visually-impaired residents.

**Sexual Orientation** – *Is there any concern that these proposals could cause differential impact on the grounds of sexuality? Including heterosexual, gay, lesbian and bisexual people.*

There is no information on the sexual orientation of visually-impaired residents.

**Religion or belief** – Is there any concern that these proposals could cause differential impact on the grounds of religion or faith? All faiths recognised in the European Convention of Human Rights are included.

N/a

A commentary has been provided for each policy where appropriate – see Appendix A

**11. Links with the Council's Safeguarding Policy (please outline any implications and actions that need to be taken)**

Safeguarding matters relating to users of licensed hackney carriage / private hire vehicles (whether disabled or not) is a prime concern for the Licensing Authority.

**12. Decisions and / or recommendations (including supporting rationale)**

Members are asked to consider whether they wish to ask officers to explore implementation of the proposed policy.

**13. Is an Equality Action Plan required?**

No – see commentary in Appendix A below

## Appendix A – Results of initial screening

Policy / service	Protected Characteristics									Commentary
	Age	Disability	Gender reassignment	Marriage / civil p'ship	Pregnancy / maternity	Race	Religion or belief	Sex	Sexual Orientation	
Activation of elements of section 165 and 167 of the Equalities Act 2010 relating to wheelchair users –implications for Licensing Authorities	O	+	O	O	O	O	O	O	O	The impact of the proposed Policy is not considered to be disproportionate. In addition, efforts will be made to ensure the local trade understands the implications of the new Policy by briefing and working with trade representatives.

Symbol	Impact
+	Positive
O	Neutral / Negligible
-	Negative
P	Potential issue

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### APPENDIX 3

#### Procedure Number:

#### CARRIAGE OF ASSISTANCE DOGS - EXEMPTION APPLICATION FORM

<b>Applicant Details</b>	
Licence Number	
Title	
Surname	
Forename(s)	
Home Address	
Postcode	
Tel No	
<b>Rationale</b>	
The Equality Act 2010 places duties on both licensed Hackney Carriage and Private Hire Vehicle Drivers to carry guide, hearing and other assistance dogs to accompanying disabled people, and to do so without charge. However, to enable drivers with certain medical conditions that are aggravated by exposure to dogs to drive or continue to drive Hackney Carriage and Private Hire Vehicles, the Act includes provisions for drivers to be exempted from these requirements on medical grounds. The Licensing Authority is responsible for issuing exemption certificates and needs to be satisfied that it is appropriate to do so on medical grounds.	
<b>Vehicle Details</b>	
Make / model	
Registration Number	
Vehicle licence number	

In determining whether to issue an exemption certificate the Licensing Authority will take into consideration the physical characteristics of the Hackney Carriage or Private Hire Vehicle.  
Please tick as appropriate:

You drive vehicles that have NO partition between the driver and the passenger compartment;  
or  
You drive vehicles that have a partition between the driver and the passenger compartment

**Nature of Medical Condition**

Most drivers with a medical condition severe enough to warrant an exemption are likely to be under a specialist (consultant) medical practitioner. It is therefore suggested that evidence be sought from a specialist as to the severity of the condition.

The driver's General Practitioner should only be approached as a last resort.

Please provide details of the medical condition you have:

**Declaration**

I declare that all the information provided on this form is true to the best of my knowledge. I understand that the grant of an exemption from the legal requirement to carry assistance dogs in a licensed Hackney Carriage or Private Hire Vehicle can be refused if any statements are subsequently found to be false. I undertake to keep the Council informed of any changes to any details provided on this form. I understand that a failure to do so will constitute a breach of the conditions under which exemption may be granted and, as such, may lead to the withdrawal of exemption, if granted.

Applicant Signature

Date

**Medical Evidence (For completion by a Medical Practitioner)**

In your opinion, does the person named above have a medical condition that is aggravated by exposure to dogs?

Yes / No

If Yes, please provide details in the space below and attach any relevant medical reports

In your opinion, is this person's medical condition so severe that he/she should be exempt from carrying guide, hearing and other assistance dogs accompanying a disabled person in their Hackney Carriage or Private Hire Vehicle?	Yes / No
<b>Details of Medical Practitioner</b>	
Name	
Signature	
Date	
Practice/Surgery/Hospital stamp	

This procedure was adopted by General Licensing Committee on XX XXXX 2017

Signed:

Interim Licensing Manager

XX XXXX 2017

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Date:  
Your ref: Our ref: [OUR REF]

Please ask for: Mr A Glover  
Extension: 5330 Direct Dial Tel: 01772 625330  
Fax: email: aglover@southribble.gov.uk



[ADDRESS]  
[ADDRESS]  
[ADDRESS]  
[ADDRESS]  
[ADDRESS]

Civic Centre, West Paddock,  
Leyland, Lancashire PR25 1DH  
Tel: 01772 421491  
Fax: 01772 622287  
email: info@southribble.gov.uk  
website: www.southribble.gov.uk

#### APPENDIX 4

Dear

#### **RE: Exemption from the duty to carry guide, hearing and other prescribed assistance dogs**

I refer to your application dated [ ] seeking exemption from the legal requirement to carry assistance dogs in your vehicle.

After careful consideration, the Licensing Authority has decided to accept your application for an exemption, on medical grounds, from the duty imposed on Hackney Carriage and Private Hire drivers under sections 168 to 171 of the Equality Act 2010 to carry assistance dogs.

Please find attached your Notice of Exemption.

The exemption is only valid when driving [add as appropriate – any vehicle/vehicles without a fixed partition/vehicles with a fixed partition] / [vehicle registration number].

[ ]

It is an offence to refuse to carry assistance dogs accompanying disabled passengers when not driving the vehicles specified in the certificate.

The exemption expires on [12 months from date of granting]. [ ].

You are required by law to display your Notice of Exemption sticker by affixing it to the nearside of the windscreen of your vehicle (so that the front of your notice faces outwards). If other drivers use the vehicle at any other time, it is your responsibility to remove the notice from the vehicle. **This exemption only applies to you.**

It is a criminal offence, punishable in the Magistrates' Court by a fine of up to £5,000 or, on indictment, by up to two years imprisonment and/or a fine, to alter, lend or allow another person to use your Certificate of Exemption.

If you have any queries or require further advice please contact [Phone Number].

Yours sincerely,



Andy Glover  
Interim Licensing Manager

(Front of notice)



## APPENDIX 5

### SOUTH RIBBLE BOROUGH COUNCIL

Driver's full name:	
Licence no:	
The person named above is exempt from carrying guide dogs, hearing dogs, or assistance dogs in the private hire vehicle specified at A below or in a kind of private hire vehicle specified at B below:	
A – registration number of specified private hire vehicle	
B – kind of private hire vehicle:	
a) Private hire vehicle with fixed partition segregating the driver from the passenger compartment	
b) Private hire vehicle without fixed partition segregating the driver from the passenger compartment	

(Reverse of notice)

# **WARNING**

Only the driver named overleaf may use this notice

# Agenda Item 6

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
<b>EQUALITIES LEGISLATION (3) - DRAFT POLICY / TESTING REQUIREMENTS TO ENSURE THE SAFETY OF LICENSED VEHICLES WHICH HAVE BEEN SUBJECT TO MODIFICATION</b>	<b>DENISE JOHNSON</b>

Is this report confidential?	No
------------------------------	----

## 1. PURPOSE OF THE REPORT

- 1.1 Taking into account (i) the Equalities Impact Assessment (attached as Appendix 2) and (ii) the outcome of the consultation exercise undertaken throughout August 2017 (summarised in section 9 below), this report invites members to recommend the formal adoption of the draft policy attached to this report as Appendix 1.

## 2. RECOMMENDATIONS

Members are requested to:

- 2.1 consider whether to forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of the draft Policy attached as Appendix 1 to this report, which includes details of the technical standards considered necessary to ensure the continuing roadworthiness of licensed / modified vehicles;  
or  
conclude that – given the technical nature of the proposed requirements – delegated authority should be given to the Revenues and Benefits Manager and Interim Licensing Manager to initiate further discussion with the trade, in a constructive manner, in order to further refine the draft technical specification forming part of Appendix 1, prior to referring it to full Council on 22 November 2017; and in either case
- 2.2 consider whether testing should be carried out by private testing stations which currently carry out roadworthiness checks on behalf of this Council, or whether testing should solely be undertaken by Lancashire County Council (options 1 and 2 in section 6 below) and – in light of the consultation exercise - to recommend a preferred option to Council.

## 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

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

#### **4. BACKGROUND TO THE REPORT**

- 4.1 On 21 March 2017, the General Licensing Committee received an initial report on a draft policy to ensure the safety of licensed vehicles which had been subject to modification. This report confirmed that the need for such a policy had arisen from a situation discovered by Licensing staff formerly employed by the Council, when it had been discovered that vehicles licensed for use in the Borough were being modified but were not then subject to any further enhanced testing to ensure their continuing roadworthiness. These vehicles were typically larger road vehicles which had been modified to carry wheelchairs, with many service users affected being particularly vulnerable. In these circumstances there is clearly an enhanced responsibility for the licensing authority to ensure the safety of passengers and other road users. Members requested that a more detailed report was brought back to a future meeting after further work had been carried out.
- 4.2 On 13 June 2017, an updated report containing a draft policy and testing specification was presented to the General Licensing Committee. This updated report contained two alternative options relating to the testing of modified vehicles for roadworthiness; one option was that tests could continue to be carried out by a range of private sector testing stations as at present, and the other option restricted the tests to the Lancashire County Council facility at Bamber Bridge. Members agreed that the proposed policy and specification should be subject to a consultation exercise as set out in the report, with the option on restricting the location of tests to the LCC facility being stated as the preferred option.

#### **5. MEETING WITH LANCASHIRE COUNTY COUNCIL**

- 5.1 On 30 March 2017 the Interim Licensing Manager met with the County Council's Compliance Manager for Integrated Transport Services. The meeting took place at the County Council's testing facility at Bamber Bridge, and was felt to be productive (particularly in identifying a set of standards which the County Council would consider appropriate to ensure the continuing safety of passengers in modified vehicles - and by extension other road users). These standards are technical in nature, and are set out in detail in the Appendix to the draft Policy (attached as Appendix 1 to this report). In essence they concern matters such as:
- a) Tracking
- Floor rails correctly fitted and secured / capable of meeting the strength requirements;
  - "Cant rail" (if fitted) correctly fitted and secured / capable of meeting the strength requirements; and
  - Correct 30mm washer or underfloor spreader plate fitted.
- b) Seating
- Any removable seat fixture must have been successfully tested to appropriate standards;
  - Evidence that seats are M1 compliant must be provided by the operator; and
  - Removable seat fixtures should only be fitted and used in accordance to the manufacturer's instructions.
- c) Restraints
- Any restraints for disabled passengers will be tested for compliance with international standards; and
  - Any restraining equipment must be marked as being in compliance with international standards.

## **6. TESTING ARRANGEMENTS**

- 6.1 Currently, the licensing authority requires all licensed vehicles to be tested every 6 months for roadworthiness prior to renewal of the vehicle licence. However, such tests have not applied to any modifications to the vehicle and it is this omission that this report seeks to correct.
- 6.2 The current testing regime states that roadworthiness tests can be carried out at around 12 private / independent trade outlets across the Borough. The vehicle owner will make arrangements for a testing station to carry out the necessary test for the appropriate fee, which is paid directly to the testing station. There is no contractual arrangement between the Council and the testing stations who undertake this work.
- 6.3 Two options for the testing of modified vehicles were identified:

Option 1:

One possible option is to allow the current independent testing stations to undertake the additional testing (as well as the roadworthiness tests currently undertaken) proposed under the modified vehicles policy. This would give a flexible approach and allow licence holders a choice in their preferred testing station.

Option 2:

Given the concerns which members have previously expressed about this matter, and the paramount importance of ensuring the safety of vulnerable service users, an alternative option would be to require all additional testing of modified vehicles (ie above and beyond roadworthiness tests) to be carried out by Lancashire County Council at their premises in Bamber Bridge. This is a purpose-built state of the art facility, and it is of particular relevance that it does not carry out any private repair work which may be identified as a result of the test on modified vehicles; in this way it can be said to be completely impartial in its assessment of the licensed fleet. For this reason, members are invited to consider whether additional testing should be restricted to the County Council's in-house testing station.

## **7. PROPOSED FEES**

- 7.1 The County Council has confirmed that, for a fee of £90 plus VAT, it would undertake a package of 3 tests which includes the checks on modified vehicles. These tests are itemised below:
  - i) regular 6 monthly SRBC roadworthiness test;
  - ii) annual LOLER (Lifting Operations and Lifting Equipment Regulations) for safety of tail lifts; and
  - iii) annual safety check on modified vehicles as per appendix to Appendix A (structural conversion work, tracking and seating).
- 7.2 Alternatively, the County Council has stated that it would undertake the annual LOLER tail lift check (paragraph 7.2ii above) AND the safety check (paragraph 7.1iii above) on modified vehicles for a sum of £60 plus VAT. This would leave the vehicle owner free to continue to have their other 6 monthly checks required by the Council carried out at the private testing stations currently utilised across the Borough.

## **8. CONSULTATION / COMMUNICATION PLAN**

8.1 The report presented to members on 13 June set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

### **8.2 Publicising the consultation exercise:**

8.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- at the end of July 2017 a letter was sent to all drivers, proprietors and operators licensed with the Borough (as well as those existing private sector testing stations who would be directly affected by this proposal) outlining the consultation areas under consultation and advising them of how responses may be submitted;
- similar letters were sent to other interested parties including local disability groups; and
- social media / tweets were used to further circulate information about the consultation.

### **8.3 The consultation exercise itself**

8.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.

8.3.2 Officers held 2 drop in sessions at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

## **9. OUTCOME OF THE CONSULTATION**

9.1 Despite the efforts to promote the consultation exercise, on balance few responses were received (although a significant contribution from a local company who would be affected by the introduction of the proposal was received – shown as Manufacturer 1 in the table below). However, the drop in sessions can be said to have been a success, with the following attendees:

<b>Date of drop in session</b>	<b>Persons attending</b>
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

9.2 A log of all the consultation responses has been compiled for this consultation exercise. For the purposes of this report, a summary of the main submissions is set out below:

<b>Source:</b>	<b>Date:</b>	<b>Issue:</b>	<b>Council response</b>
Driver 1	17.8.17	Not like the thought of just 1 testing station for this it creates an unfair competition which forces prices up.	Noted
Driver 2	24.8.17	Would prefer testing at SRBC approved garage rather than by LCC –	Noted

		would keep cost down and employment local	
LCC	25.8.17	Draft suggests that maximum height of step should be 420mm for first step and 300 mm for subsequent ones, whereas LCC criteria for school work are 250mm for first step and 300mm for subsequent ones	Noted
Manufacturer 1	30.8.17	<p><b><u>Inspections to ensure converted vehicles have been correctly and safety modified:</u></b></p> <p>Feels that further consultation is required with all interested parties before a meaningful revision to a policy for wheelchair accessible vehicles can be adopted</p> <p>Current testing regime by LCC ensures vehicles are inspected to VOSA standards and include ensuring tracking and seats are correctly fitted</p> <p>Current testing undertaken by the appointed testing stations also ensure correct fitting and use of seats and seatbelt during a class 5 test</p> <p>Seating compliance is impossible to demonstrate for older vehicles already licensed as many seat certificates are unavailable from manufacturers due to age</p> <p><b><u>Standards for modified minibuses/psv's</u></b></p> <p>All drivers have been trained in wheelchair use by LCC compliance officer</p> <p>Passenger seats have the same trim wherever</p>	All noted

	<p>possible but due to operational needs matching seats are not always possible. This is not a safety issue and these type of vehicles aren't front line taxis that service the general public directly</p> <p>Floor height at 420mm incorrect</p> <p>Minimum rail length incorrect or wrongly worded</p> <p>Turning circle of a wheelchair within the vehicle doesn't seem to have any relevance.</p>	
	<p><b><u>Testing going forward</u></b></p> <p>IVA's booking are not easily available in the local area. I understand that FMU may have capacity issues if they were to undertake all of the ongoing road worthiness testing.</p> <p>We propose FMU undertake a 1<sup>st</sup> use inspection instead of an IVA using the amended Appendix one details to tests to be undertaken on modified vehicles. The current appendix has some errors that would need to be amended before it is to be used</p> <p>Opposed to testing solely by LCC - ongoing testing to be undertaken by authorised garages using established taxi test regime along with an amended appendix one.</p> <p>This is only a brief response due to current time constraints and I feel a great deal more of</p>	

	<p>further consultation is required before things can move forward. I am happy to work with SRBC to this end.</p>	
--	-----------------------------------------------------------------------------------------------------------------------	--

9.3 Key points to emerge from the consultation are as follows:

- i) a number of technical objections to the content of the draft were raised by the manufacturer which responded to the consultation exercise. Some of these (such as the incorrect reference in Appendix 1 to a floor height of 420mm) are relatively non-contentious and are accepted, but others are more fundamental in that they suggest at least some elements of the proposed tests will be either (a) unnecessary or (b) a duplication of tests already carried out by Lancashire County Council. The manufacturer who submitted detailed comment has requested that further discussions of a technical and specialist nature between all interested parties are required to iron out the above issues, and members may wish to consider this option (set out in section 2.2 above); and
- ii) it should be noted that no responses were received from private testing stations (ie those bodies which currently undertake the roadworthiness tests required by this authority). However, all 3 respondents have expressed opposition to any requirement for all testing to be carried out by Lancashire County Council

9.4 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

## 10. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 10.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

### 10.2 Comments of the Monitoring Officer

Road safety is of paramount importance to the licensing authority, and this report seeks to ensure the safe transport of passengers in modified vehicles, by introducing an additional testing regime on modified vehicles.

Other implications:	
► Risk	See Legal comments above.
► Equality & Diversity	The report seeks to ensure the safe transport of passengers with physical disabilities, many of whom will be wheelchair users and require modified transport.
► HR & Organisational Development	None
► Property & Asset Management	None
► ICT / Technology	None

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

Appendix 1 – draft Policy and testing standards to be imposed

## Appendix 2 – Equalities Impact Assessment

SMT Member's Name: Denise Johnson  
Job Title: Director of Development, Enterprise & Communities

Report Author:	Telephone:	Date:
Peter Haywood	01772 625578	27 September 2017



## GENERAL LICENSING COMMITTEE

### PROCEDURE FOR ENSURING ROADWORTHINESS OF LICENSED VEHICLES WHICH HAVE BEEN SUBJECT TO MODIFICATION

#### Procedure Number:

#### Introduction

South Ribble Borough Council has a responsibility to ensure that all vehicles operating as hackney carriage and private hire vehicles are fit for purpose. This is particularly important for vehicles which have been adapted, converted or modified to carry passengers who use wheelchairs or who have specialised needs.

South Ribble is home to one of the largest number of vehicles which have been self-converted from vans to carry wheelchair passengers. Whilst the current roadworthiness checks ensure that a vehicle is mechanically sound, they do not extend to checking that the modifications have been carried out to the required standard.

Typically the types of vehicles adapted or modified are:

- small vans (N1 vehicles); and
- minibus type vehicles (M2 vehicles) – although these could be classified as a standard M1 vehicle.

Further details on the relevant classifications are given below:

- M1** vehicles designed and constructed for the carriage of passengers comprising no more than eight seats in addition to the driver's seat
- M2** vehicles designed and constructed for the carriage of passengers comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 tonnes
- N1** Vehicles designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes

This policy will apply to **all** vehicles that have been converted, modified or adapted from the original manufacturer's specification since first registration and is intended to provide additional safeguards to ensure that the conversion, modification or adaptation has been completed to the required standard and remains in such state for the period that the vehicle is licensed by this Authority.

This policy will not apply to any vehicle including wheelchair accessible vehicles that are produced for licensing that have not been converted, modified or adapted since its initial registration.

### **Standards for modified minibuses/PSV's**

Vehicles which are described other than M1 on the V5 registration document must enable passengers seated behind the driver to have access to at least 2 doors (side or rear opening) without having to climb over or fold down any seats. Such vehicles must also satisfy the following:

- all retro-fitted seatbelts must meet MOT installation and condition standards;
- the passenger interior floor area must be of a flat, non-slip, non-trip surface. Where wheelchair tracking is fitted, the Council recommends the fitting of blanking strips;
- partitioned rear passenger compartments must be heated and capable of variable control. Such heaters must be linked accordingly to the main vehicle heating system and be capable of variable control. All exposed piping and wiring must be secure and adequately insulated. Water leaks are unacceptable;
- no interior surface within the passenger compartment shall contain sharp edges likely to cause injury;
- all interior trim must match and be fitted to a professional standard. Evidence of obvious work or modification should not be on view;
- all modified seats must be of a matching type. On the initial inspection, seats must not be fitted with removable seat covers;
- all vehicles must be fitted with safety glass containing an approved marking to this effect. Any partition fitted with safety glazing (plastic) must be of a suitable material (e.g. shatter-proof);
- rear compartments entrance/exit areas must be adequately illuminated at floor and at higher levels. Such lighting must operate automatically when each rear passenger door is opened;
- all passenger doors must be capable of being restrained in the open position;
- each rear passenger door aperture must contain at least one grab handle to assist passengers while entering/exiting the vehicle. Each handle must be securely fixed using a substantial mounting such as machine screws that are capable of holding a reasonable force;
- each rear passenger compartment must contain at least two opening windows that can be opened from the interior for ventilation purposes; and
- the maximum height from the road surface to the passenger floor should be no more than 420mm at any point. Vehicles exceeding this figure must have some form of step incorporated into the bodywork (this may be of a retracting or folding type).

Additional requirements for wheelchair accessible vehicles:

- where the vehicle is fitted with a tail lift, a "LOLER" certificate must be obtained prior to the vehicle inspection;
- the rear compartment entrance/exit doors must be of a suitable size to allow access for a wheelchair;
- the vehicle must contain an adequate floor turning area inside the rear passenger compartment to allow a wheelchair room to manoeuvre and face rearwards;
- the vehicle must be capable of adequately securing a wheelchair to the vehicle floor using a suitable type of clamp or restraint;
- appropriate wheelchair restraint(s) must accompany the vehicle when it is presented for test;
- wheelchair ramps must be capable of being securely fixed to the vehicle during use. They must be of a type and length allowing safe and easy use by the person loading the wheelchair;
- wheelchair ramps must be safely and securely stored in a suitable area of the vehicle when they are not in use; and

- seatbelts must be fitted to restrain wheelchair occupants. A single seatbelt must not be used to restrain both the wheelchair and occupant.

### **Vehicle Certification**

Within Europe two systems of type approval have been in existence for over 20 years. The first is based on European Regulations and Directives providing approval for whole vehicles, vehicle systems and components. The second is based on United Nations Regulations dealing with systems and components but not whole vehicles. "Type approval" is the process of ensuring that production of new vehicles, their systems and components have been designed and constructed to meet agreed standards of safety, security and environmental protection.

There are a number of vehicle certifications:

1. European Community Whole Vehicle Type Approval (ECWVTA)
2. European Small Series Type Approval for cars (ECSSTA)
3. National Small Series Type Approval (NSSTA)
4. Individual Vehicle Approval (IVA)

### **Requirements for initial licence application**

With effect from XX/XX/XXXX vehicles of categories M1, M2 or N1 which have been converted, adapted or modified from the original manufacturer's specification (whether undertaken by the vehicle licence holder or a third party), and which have not previously been licensed as a hackney carriage or private hire vehicle by South Ribble Borough Council, will be required to present appropriate certification at the time of application for a licence. **Requirements for renewal applications**

This part of the policy will apply to all vehicles converted, adapted or modified after the date of first registration irrespective of the date the vehicle was first licensed as a hackney carriage or private hire vehicle.

With effect from XX/XX/XXXX all converted, modified or adapted vehicles must pass the extended roadworthiness test as detailed in Appendix 1 at the time of their next subsequent renewal.

This procedure adopted by General Licensing Committee on XX.XX/XXXX

Signed:



Interim Licensing Manager

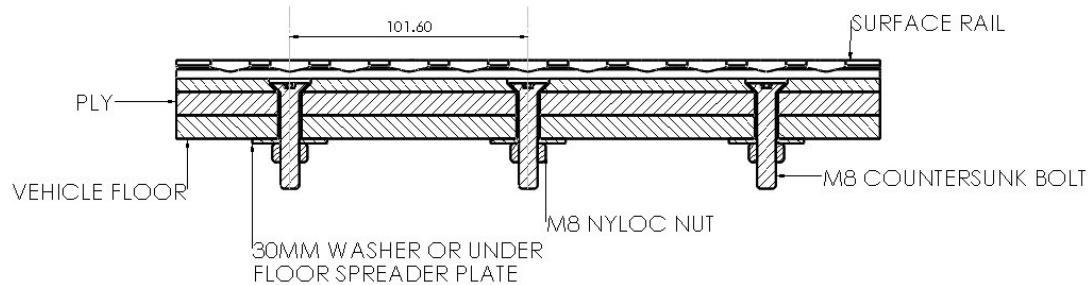
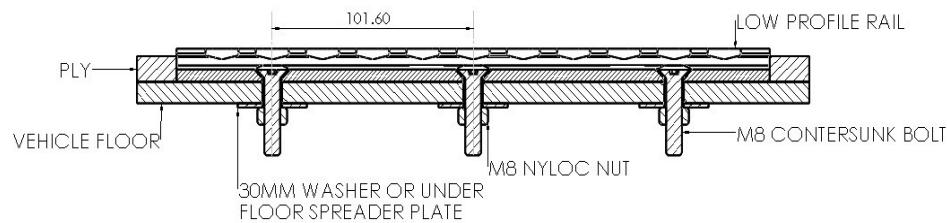
XX.XX/XXXX

Appendix 1 – details to tests to be undertaken on modified vehicles

**Lancashire County Council Test for vehicles supplied with wheelchair Accessible fittings**

**Tracking**

1. Floor rails correctly fitted and secured with M8 fasteners, are capable of meeting the strength requirements of M1 load.
2. “Cant rail” for third point occupant restraint fitment or can be used as location for equipment stowage correctly fitted and secured with M8 fasteners, are capable of meeting the strength requirements of M1 load.
3. Correct 30mm washer or underfloor spreader plate fitted
  - Where the 30mm washer or underfloor spreader plate cannot be used, in such instances it is acceptable to use steel plate of equivalent strength and cross sectional area.



**Note 1**

1. The minimum acceptable length of rail that can safely be installed in a vehicle is 1300 mm. This will accommodate one wheelchair positioned centrally.
2. The rail must be fitted ensuring fasteners are fitted to the extreme end hole positions.

**Note 2**

1. For details of the space required within a vehicle for a wheelchair installation, reference should be made to the guidelines within the British or International standard ISO 10542-1 part 2, "Technical systems and aids for disabled or handicapped persons - Wheelchair Tiedown and Occupant Restraint Systems".

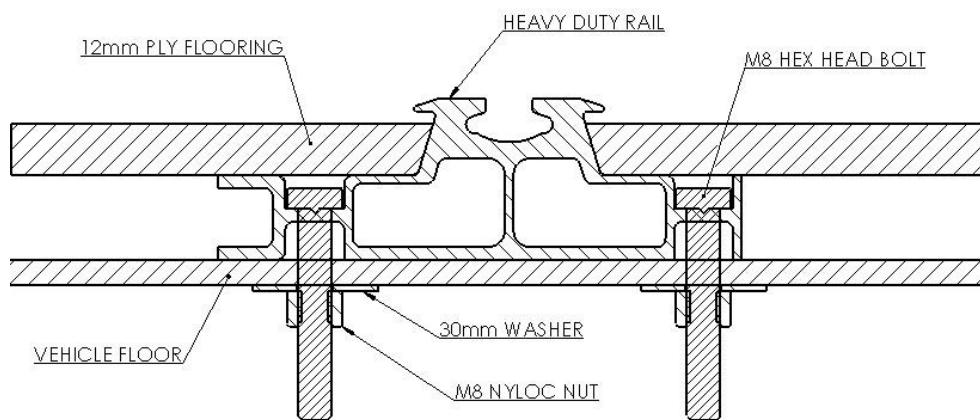
### Note 3

1. Some vehicle layouts may have problems using Low Profile rail with pre-drilled countersunk holes due to under floor obstructions, such as box sections or angle brackets. In these situations where a hole is "missed", it is required to generate two new holes, one on either side of the original, with the maximum distance between them being 101 mm.
2. The original unused hole must finally be filled with a short self-tapping screw with a matching head.

### Note 4

1. It is critical that the installed rail is flat along its length and correctly positioned relative to any other rail lengths fitted in the vehicle floor. Elements within a pattern of rails must also be parallel to one another. This is particularly important if fitting Unwin "Fixed Base Equipment" or manufacturing removable seats, to ensure they will fit universally along the rails.

### Heavy Duty Rail



Available in 3.95 and 4.50 metre lengths, this rail profile can be installed with a maximum unsupported span of 600 mm under normal conditions.

Additional fasteners must be fitted at the ends of the rail, in particular at the rear end.

Fasteners to be used on installation

Bolts:- M8 steel, hexagon headed grade 8.8, plated, guide length 40 - 50 mm.

Nuts:- M8 steel, nyloc, grade 8, plated.

Washers:- M8 steel, plain, plated.

Torque settings:- 20 nm (15 lbs/ft).

Under Floor Reinforcement on Heavy Duty Rail.

Contact manufacturer for specific recommendations.

## **Seats**

Where the intention is seats are easily moved within or removed from the vehicle the following will apply;

1. If seatbelts are attached to the seat and the vehicle is to be sold within the EU, the vehicle builder will invariably require evidence that the assembly meets the appropriate Directives.
2. The removable seat fixture must have been successfully tested and VCA witnessed to M1 loads applied to a single seat up to 33kg with three fixing bolts. Evidence that seats are M1 compliant must be provided by the operator.
3. Removable seat fixtures should **ONLY** be fitted and used in accordance to the manufacturer's instructions.

## **Check specific to Wheelchair Tie down Restraints & Wheelchair Passenger Restraints**

1. International standard ISO 10542-1, "Technical systems and aids for disabled or handicapped persons - Wheelchair Tie-down and Occupant Restraint Systems" must be complied with.
2. Evidence of equipment being International standard ISO 10542-1 compliant must be visible on equipment. This is usually via a label woven into the equipment. If the operator is unable to supply this evidence the equipment will be rejected.  
N.B. The use of only a pelvic belt as an occupant restraint is unlikely to provide adequate safety to a wheelchair user in the event of a frontal impact.

## **Inspection List**

**Tracking/Wheelchair securing fittings (Floor)** (Minimum wheelchair space of 1200mm long by 700mm wide with an internal saloon head room height of 1400mm available for each wheelchair to be carried)

- i. Check for ISO 10542-1 or equivalent
- ii. Check correct fittings are being used
- iii. Check spacing for securing bolts
- iv. Check correct washers are being used
- v. Minimum wheelchair space of 1200mm long by 700mm wide
- vi. Check maximum distance between securing cups or length of tracing. (minimum 1200mm)
- vii. If tracking being used,
  - check rails are parallel.
  - Check minimum width between rails (minimum acceptable 300mm)
  - Check track for cleanliness and usability

**Solo Anchorage Systems** or similar (Minimum wheelchair space of 1200mm long by 700mm wide with an internal saloon head room height of 1400mm available for each wheelchair to be carried)

- i. Complies with ISO10542 standard requirements
- ii. Correct bolts and spreader washers used
- iii. Minimum wheelchair space of 1200mm long by 700mm wide

#### **Wheelchair Tie-down Restraints & Wheelchair Passenger Restraints**

- i. Check for ISO 10542-1 or equivalent markings
- ii. Check for maximum capacity markings on Wheelchair Tie-down Restraints
- iii. ISO 10542-1 or equivalent markings only present, assume maximum capacity 85kg
- iv. If ISO 10542-1 or equivalent markings present and additional maximum capacity shown on official labelling make note of capacity, e.g. 120kg.
- v. Check the retractors by pulling out the webbing to ensure they are locking properly
- vi. Ensure the webbing is not cut, frayed, damaged or contaminated by polishes, oils or chemicals
- vii. Check that metal parts are not worn, broken or cracked
- viii. Check connector parts to ensure they are not cracked, broken or missing
- ix. Check that mounting hardware, such as bolts, nuts, etc. are secure
- x. Check floor anchorages for proper securing and operation
- xi. Check lap and shoulder belt webbing is not cut, frayed or damaged
- xii. Check buckles/carabiners for damage

#### **Seating**

- i. M1 Compliant seating being used in vehicles of 8 passenger seats or less
- ii. Seat back secure
- iii. Seat cushion secure
- iv. Seat legs attached to the vehicle in such a way that the load path will be transferred back into the vehicle
- v. Seat belt stalks operating correctly
- vi. Compliant bolts and spreaders used

#### **Cant Rail (if used)**

- i. Attached to a secure part of the bodywork
- ii. Correct bolts and spreaders used

## **CONCLUSION**

The above testing regime is intended to provide reassurance to elected members, drivers, vehicle users and residents of the Borough that all wheelchair accessible vehicles are subject to adequate and appropriate roadworthiness tests.

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## Equality Impact Assessment

### Introduction

An Equality Impact Assessment (EIA) is required to ensure that equality is placed at the centre of policy development and review, as well as service delivery. The purpose of this EIA is to systematically analyse the likely impact of a service, policy or proposals on different community groups, and how the needs of such groups have been taken into account in developing those proposals.

The EIA can anticipate and recommend ways to avoid any discriminatory or negative consequences for a particular group, on the grounds of any protected characteristic. It provides the opportunity to demonstrate the potential benefits for equality target groups arising from a proposed policy or project.

The need for an EIA stems from the general duty placed on public authorities to eliminate unlawful discrimination in carrying out functions, and promote equality of opportunity. This is outlined in the Equality Act 2010, with specific public sector duties in place from April 2011.

<b>1. Name of Policy or Service (existing or proposed)</b>	
Procedure for ensuring roadworthiness of licensed vehicles which have been subject to modification	
<b>2. Responsible Manager</b>	
Peter Haywood	
<b>3. Date EIA completed</b>	<b>Review date</b>
21 April 2017	
<b>4. Description and aims of policy / service (including relevance to equalities)</b>	
<p>South Ribble Borough Council has a responsibility to ensure that all vehicles operating as hackney carriage and private hire vehicles are fit for purpose. This is particularly important for vehicles which have been adapted, converted or modified to carry passengers who use wheelchairs or who have specialised needs.</p> <p>South Ribble is home to one of the largest number of vehicles which have been self-converted from vans to carry wheelchair passengers. Whilst the current roadworthiness checks ensure that a vehicle is mechanically sound, they do not extend to checking that the modifications have been carried out to the required standard.</p> <p>This policy will apply to <b>all</b> vehicles that have been converted, modified or adapted from the original manufacturer's specification since first registration and is intended to provide additional safeguards to ensure that the conversion, modification or adaptation has been completed to the required standard and remains in such state for the period that the vehicle is licensed by this Authority.</p> <p>This policy will not apply to any vehicle including wheelchair accessible vehicles that are produced</p>	

for licensing that have not been converted, modified or adapted since its initial registration.

## **5. Who are the stakeholders?**

Council officers

All Councillors including in particular the members of the Council's General Licensing Committee

All those who have or wish to have (i) Hackney Carriage drivers or vehicle licences, or (ii) Private Hire operator and driver licences

Local companies which modify vehicles on a commercial basis

Various teams within the Council including Legal Services and Environmental Health (incorporating Licensing)

## **6. What outcomes do we want to achieve?**

The introduction of safe standards and a regular testing regime which will ensure that any modifications to licensed vehicles are carried out in a roadworthy manner.

## **7. How will performance be measured?**

Number of modified vehicles subject to the testing regime and which are confirmed to be roadworthy once the modification has been carried out.

Number of modified vehicles subject to the testing regime and which are confirmed to be roadworthy once the modification has been carried out.

## **8. Brief summary of research and background data**

Given that the Borough has a major modifier of vehicles operating within its boundaries, there are a large number of modified vehicles operating in the Borough. These are frequently used to transport children to and from Special Educational facilities across the Borough and beyond.

## **9. Methods and outcome of consultation**

No consultation has yet been undertaken. It is proposed that locally licensed drivers should be given advance warning of the proposal to introduce a distinct Intended Use Policy via the Taxi Trade Forum. This will be followed by an official 28 day consultation period when the views of the trade (and particularly the major local modifier) will be formally sought. The County Council will also be asked to provide its input, as will local disability groups.

## **10. Results of initial screening**

The following questions have been considered in order to evaluate the various equality groups:-

**Age – Is there any concern that these proposals could cause differential impact on the grounds of age?**

As stated above, many modified vehicles are used to transport children with special educational needs to school and back. These children are vulnerable and it is imperative to ensure their safety as well as that of other road users.

**Disability** – *Is there any concern that these proposals could cause differential impact on the grounds of disability? Disability is recognised under the Equality Act as ‘a physical or mental impairment which has a substantial and long term effect on a person’s ability to carry out normal day to day activities.’*

As stated above, by definition many of the users of modified vehicles have disabilities; the purpose of this proposed Policy is to ensure their safety and that of other road users.

**Gender Reassignment** – *Is there any concern that these proposals could cause differential impact on the grounds of gender reassignment? The Equality Act recognises this where a person is proposing to undergo, is undergoing, or has undergone a process (or part of a process) for changing sex.*

No concern.

**Marriage / Civil Partnership** – *Is there any concern that these proposals could cause differential impact on the grounds of marriage or civil partnership? Under the Equality Act, no such protection exists for single or unmarried people.*

No concern.

**Pregnancy / Maternity** – *Is there any concern that these proposals could cause differential impact on the grounds of pregnancy or maternity?*

No concern.

**Race** – *Is there any concern that these proposals could cause differential impact on the grounds of race? Race is recognised under the Equality Act as a person’s skin colour, nationality or ethnic origin.*

No concern.

**Sex** – *Is there any concern that these proposals could cause differential impact on the grounds of gender? Including men, women and transgender people.*

No concern.

**Sexual Orientation** – *Is there any concern that these proposals could cause differential impact on the grounds of sexuality? Including heterosexual, gay, lesbian and bisexual people.*

No concern.

**Religion or belief** – Is there any concern that these proposals could cause differential impact on the grounds of religion or faith? All faiths recognised in the European Convention of Human Rights are included.

No concern.

A commentary has been provided for each policy where appropriate – see Appendix A

**11. Links with the Council’s Safeguarding Policy (please outline any implications and actions that need to be taken)**

Safeguarding relating to users of licensed hackney carriage / private hire vehicles (whether disabled or not) is a prime concern for the Licensing Authority.

**12. Decisions and / or recommendations (including supporting rationale)**

Members are asked to consider whether they wish to ask officers to explore implementation of the proposed policy.

**13. Is an Equality Action Plan required?**

No – see commentary in Appendix A below

## Appendix A – Results of initial screening

Policy / service	Protected Characteristics									Commentary
	Age	Disability	Gender reassignment	Marriage / civil p'ship	Pregnancy / maternity	Race	Religion or belief	Sex	Sexual Orientation	
Activation of elements of section 165 and 167 of the Equalities Act 2010 relating to wheelchair users –implications for Licensing Authorities	+	+	O	O	O	O	O	O	O	Minimal impact on the Equalities agenda.

Symbol	Impact
+	Positive
O	Neutral / Negligible
-	Negative
P	Potential issue

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# Agenda Item 7

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
PROPOSED ADOPTION OF INTENDED USE POLICY	DENISE JOHNSON

Is this report confidential?	No
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## 1. PURPOSE OF THE REPORT

- 1.1 Taking into account (i) the Equalities Impact Assessment (attached as Appendix 2) and (ii) the outcome of the consultation exercise undertaken throughout August 2017 (summarised in section 9 below), this report invites members to recommend the formal adoption of the draft Intended Use Policy attached as Appendix 1.

## 2. RECOMMENDATIONS

- 2.1 Members are requested to forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of the draft Intended Use Policy attached as Appendix 1, along with the consequent proposed amendment to section 6.14 of the current Licensing Policy (as set out in section 7.3 below).

## 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

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

## 4. BACKGROUND TO THE REPORT

- 4.1 At the meeting of the General Licensing Committee on 21 February 2017, members of the Committee expressed an interest in receiving information on the *modus operandi* of the firm trading as Uber (about which there is increasing national publicity), along with any potential implications this may have for the licensing authority. A report was then presented to the General Licensing Committee on 11 July 2017, which covered the above point but also outlined the range of situations in which drivers licensed by another local authority ("out of town drivers") may be able to drive legitimately in this Borough. One such situation is set out in section 5 below, and it is this scenario which has led to the proposed strengthening of the Council's stance via an Intended Use Policy.

- 4.2 It should be stated from the outset that the authority does not consider itself to have a major problem arising from the number of out of town drivers operating within the Borough.

Specifically, there are currently 2 operators (out of 18) known to employ between them a total of 12 drivers licensed by other authorities but driving within South Ribble. However, it is imperative that the Council plays its part in seeking to minimise its exposure to risk at every opportunity and this proposal forms part of such a strategy.

## **5. ‘OUT OF TOWN’ HACKNEY CARRIAGES ACTING AS PRIVATE HIRE VEHICLES**

- 5.1 Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 allows a district council to require any applicant for a licence to submit such information as they reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence granted. Section 47(1) of the 1976 Act allows a district council to attach conditions to a licence as it may consider reasonably necessary.
- 5.2 In 2008 and 2010, two cases of significance were pursued through the courts. The High Court handed down relevant judgements in Newcastle City Council v Berwick upon Tweed Borough Council and Stockton-On-Tees Borough Council v Fidler, Hussain & Zamanian. These identified that once a vehicle has been licensed as a Hackney Carriage, it is a Hackney Carriage for the duration of that licence (wherever it is currently located) and can therefore be used for pre-booked (private hire) purposes in any district in England and Wales. The judgments make it clear that it is not an offence for a licensed Private Hire operator to take bookings but then dispatch a Hackney Carriage licensed by a district (or Transport for London - TfL) which is different from that which licences that operator.
- 5.3 The cases also confirmed that a Hackney Carriage vehicle can be used for pre-booked (ie Private Hire) work outside the district in which the vehicle has been licensed, even if the Licensing Authority is some considerable distance from the district in which the vehicle is undertaking the pre-booked work. The courts concluded that by virtue of Section 37 of the Town Police Clauses Act 1847, a local authority had discretion to refuse to issue a hackney carriage licence to those proprietors who intended to use the vehicle predominantly outside the area.

## **6. CURRENT RESPONSE BY SOUTH RIBBLE BOROUGH COUNCIL**

- 6.1 The outcome of the above cases is often described as a “legal loophole” and has proved to be a very contentious issue in recent years for Licensing authorities. This has been compounded by the approach of certain local authorities who have tended to issue large numbers of Hackney Carriage Driver Licences with little regard for problems caused when such vehicles operate primarily in other local authority areas.
- 6.2 To combat this, many local authorities have introduced an Intended Use Policy; this obliges Hackney Carriage proprietors to declare that they will primarily operate the vehicle as a Hackney Carriage within the area of that Licensing authority, rather than use the principle in the Berwick upon Tweed and Fidler cases to drive as a Private Hire vehicle elsewhere. As a result, the problem is now far less prevalent than it was even 2 years ago.
- 6.3 In order to ensure that this authority is playing its part in combating problems from the Berwick upon Tweed and Fidler judgments, the Council has introduced a reference to “Intended Use” in its current Licensing Policy (formally adopted in July 2016). At page 13 of the current Licensing Policy (paragraph 6.14) it states:

“If it appears...that the applicant [for a Hackney Carriage Driver’s Licence] intends to trade in another authority’s area for a substantial period of time, and so frustrate the purpose of the legislation and potentially undermine public safety, there will be a presumption against the granting of a licence.”

6.4 This is a significant measure – it is important for this authority to do what it can to prevent its own drivers working beyond its borders before it can legitimately seek to persuade others to meet this same high standard.

6.5 Furthermore, South Ribble Borough Council has also previously introduced a number of conditions on the operator licence with which all operators must abide. These are set out in section 12 of the operator conditions and include the following:

- an operator must advise the local authority within 72 hours if any “out of town” driver is employed to work in the Borough;
- the operator must keep on file copies of all relevant documentation, eg DVLA licence, insurance certificate, MOT etc;
- all such vehicles must bear an advertisement stating “This vehicle is NOT licensed by South Ribble Borough Council”; and
- Any telephone booking must be preceded by a telephone warning stating that any complaints will be forwarded to the relevant Council as South Ribble Borough Council can only take enforcement action against drivers issued with South Ribble licences.

## **7. LOOKING AHEAD – PROPOSED ADDITIONAL MEASURE – INTENDED USE POLICY**

7.1 As well as seeking to strengthen the operator conditions, it is proposed to go further and revisit the Council’s approach to “Intended Use” (currently set out on page 13 / section 6.14 of the Licensing Policy). The Council’s current stance of including a minimalist Intended Use Policy within one section of an overall Licensing Policy - with little clarification or detail as to precisely what is expected - may lack robustness when compared to the approach adopted in other local authorities.

7.2 Consequently, at their meeting on 11 July 2017 members of the General Licensing Committee were asked to consider adopting an Intended Use Policy (attached as Appendix 1) as a distinct procedure in its own right. The proposed Intended Use Policy goes into considerably more detail about the issue and, in addition, it will provide a means for officers to determine if a Hackney Carriage is being used to fulfil pre-booked hiring on behalf of a Private Hire operator licensed by another local authority (with that information being used to determine if a licence should then be granted or not by South Ribble Borough Council).

7.3 Members agreed to consult on:

- the draft Intended Use Policy attached as Appendix 1, with a view to formal adoption of a full Intended Use Policy at a future meeting; and
- deleting the current wording set out in section 6.14 of the Licensing Policy, and replacing it with the following:

**“Intended Use:**

The Council has adopted a specific and distinct Intended Use Policy. Please refer to this document for details of the Council’s approach to Intended Use.”

## **8. CONSULTATION / COMMUNICATION PLAN**

8.1 The report presented to members on 11 July set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

## **8.2 Publicising the consultation exercise:**

8.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- Proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- At the end of July 2017 a letter was sent to all drivers, proprietors and operators licensed with the Borough outlining the consultation areas under consultation and advising them of how responses may be submitted;
- Similar letters were sent to other interested parties including local disability groups; and
- Social media / tweets were used to further circulate information about the consultation.

## **8.3 The consultation exercise itself**

8.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.

8.3.2 Officers held 2 drop in sessions at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

## **9. OUTCOME OF THE CONSULTATION**

9.1 Despite the efforts to promote the consultation exercise, on balance few responses were received. However, the drop in sessions can be said to have been a success, with the following attendees:

<b>Date of drop in session</b>	<b>Persons attending</b>
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

9.2 A log of all the consultation responses has been compiled for this consultation exercise. For the purposes of this report, a summary of the main submissions is set out below:

<b>Source:</b>	<b>Date:</b>	<b>Issue:</b>	<b>Council response</b>
Drivers 1-6	15.8.17	Generally supportive of this proposal	Noted
Driver 7	17.8.17	How would this be enforced?	Via Council's Licensing staff (who do engage in out of hours activity)
Operator	31.8.17	The company's policy is never to contract any out of borough owner drivers. I think an amendment to issuing a company's operating licence should include only using drivers and vehicles licenced with SRBC. This would allow SRBC licensing team to police all drivers and vehicles operated by the	

		taxis companies within the borough	
--	--	------------------------------------	--

9.3 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

## 10. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 10.1 Comments of the Statutory Finance Officer

There are no financial implications arising from this report.

### 10.2 Comments of the Monitoring Officer

The legal implications are set out in the body of the report. There will be a right of appeal to the Magistrates Court for any refusal or revocation of a licence.

Other implications:	
► Risk	The Licensing regime has traditionally been predicated upon local control over drivers licensed with the local authority in whose area they operate. The growing national trend towards "out of town" drivers could be seen as undermining this approach. This report identifies an additional / proportionate measure which members may wish to adopt to strengthen their position.
► Equality & Diversity	None
► HR & Organisational Development	None
► Property & Asset Management	None
► ICT / Technology	None

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

Appendix 1 – draft Intended Use Policy

Appendix 2 – Equalities Impact Assessment for Intended Use Policy

SMT Member's Name: Denise Johnson

Job Title: Director of Development, Enterprise & Communities

Report Author:	Telephone:	Date:
Peter Haywood	01772 625578	27 September 2017

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## Appendix 1

### **Proposed Intended Use Policy for the Licensing of Hackney Carriages**

#### **1) Reasons for Policy**

1.1 The Council wishes to ensure that applications for the granting of Hackney Carriage licences are determined in accordance with the aim of maintaining the safety of the public through having safe vehicles, fit and proper drivers and appropriate conditions of hire. This is best achieved through a licensing regime that can be applied and enforced by the local Licensing Authority as described by the High Court in its judgement and the declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].

#### **2) Applications for the New Grant and Renewal of a Hackney Carriage Licence**

2.1 Applicants for new Hackney Carriage vehicle proprietor licences and renewals of licences shall be expected to demonstrate a bona fide intention to ply for hire within the local authority area of the Borough of South Ribble under the terms of the licence for which application is being made.

2.2 Each application will be decided on its merits. However, there will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within the local authority area of the Borough of South Ribble will not be granted a hackney carriage vehicle licence authorising them to do so.

2.3 Even where the applicant intends to ply for hire, to a material extent, in the Borough of South Ribble local authority area, if the intention is also to trade in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

2.4 All applicants will be expected to complete an Intended Use Declaration as part of the application process. The Declaration will be as follows (or will be drafted in such a way to have a similar effect and meaning):

#### **DECLARATION FOR THE INTENDED USE OF HACKNEY CARRIAGES**

I have been advised that, in carrying out its functions under section 37 of the Town Police Clauses Act 1847 and section 57(1) of the Local Government (Miscellaneous Provisions) Act 1976, the Council expects applicants for Hackney Carriage vehicle licences to demonstrate a bona fide intention to ply for hire within the administrative area of the Council.

I hereby declare that it is my intention that the vehicle licensed by me will be used entirely and/or predominantly in the Borough of South Ribble and I understand that should this not be the case either at the date hereof or at any time thereafter, the Council may suspend, revoke or

refuse to renew the licence under Section 60(1) (c) Local Government (Miscellaneous Provisions) Act 1976.

Name: \_\_\_\_\_

Vehicle Registration: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

### 3) Transfer of Ownership of Hackney Carriage

- 3.1 The transferee of a licensed Hackney Carriage shall be asked to inform the Authority whether they have a bona fide intention to ply for hire within the Borough of South Ribble local authority area. Transferees should note the obligation under Section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an Authorised Officer, information which may reasonably be required by him/her for the purpose of carrying out his/her functions under the legislation.
- 3.2 Transferees of existing licences shall be expected to have a bona fide intention to ply for hire with the Borough of South Ribble local authority area under the terms of the licence in respect of the vehicle being transferred.
- 3.3 Where the transferee of a licensed Hackney Carriage is found to have no intention to ply for hire, to a material extent, within the Borough of South Ribble local authority area and/or intends to trade in another local authority area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, consideration will be given (either at renewal or earlier) to the suspension or revocation of the licence. Where the transferee proposes to operate remotely from the Borough of South Ribble, there will be a presumption that his licence will be revoked. Each case will be decided on its merits.
- 3.4 All applicants will be expected to complete an Intended Use Declaration as part of the application process, as above.

### 4) Change of Vehicle – When a Proprietor replaces a Licensed Vehicle

- 4.1 Applicants seeking the granting of a Hackney Carriage vehicle proprietor's licence for a vehicle intended to replace another licensed vehicle shall be asked to inform the authority of their intended use of the vehicle. There will be a presumption that applicants who no longer intend to ply for hire, to a material extent, within the Borough of South Ribble will not have the new licence granted.
- 4.2 Even where the applicant intends to ply for hire to a material extent in the Borough of South Ribble, but the intention is also to trade in another local authority area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.

4.3 All applicants will be expected to complete an Intended Use Declaration as part of the application process, as above.

5) Revocation or Suspension of Licence

5.1 Where a licence has been granted under the terms that the applicant intends to ply for hire, to a material extent, within the Borough of South Ribble but is subsequently found not to be plying for hire, to a material extent, in the Borough of South Ribble and/or to be trading in another local authority area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be frustrated) then, there will be a presumption that the licence will be reviewed by the Authority which could lead to the suspension or revocation of that licence. Each case will be decided on its own merits.

6) Exceptional Circumstances

6.1 Each application will be decided on its merits. However, the presumptions that intended use is to ply for hire, to a material extent, within Borough of South Ribble will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist, will be expected to be able to satisfy the Authority, at a meeting of the General Licensing Committee, that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed or if it were not suspended or revoked as the case may be.

This Policy was adopted by General Licensing Committee on XX XXXX 2017

Signed:

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Interim Licensing Manager

XX XXXX 2017

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## Equality Impact Assessment

### Introduction

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The EIA can anticipate and recommend ways to avoid any discriminatory or negative consequences for a particular group, on the grounds of any protected characteristic. It provides the opportunity to demonstrate the potential benefits for equality target groups arising from a proposed policy or project.

The need for an EIA stems from the general duty placed on public authorities to eliminate unlawful discrimination in carrying out functions, and promote equality of opportunity. This is outlined in the Equality Act 2010, with specific public sector duties in place from April 2011.

<b>1. Name of Policy or Service (existing or proposed)</b>	
Adoption of an Intended Use Policy	
<b>2. Responsible Manager</b>	
Peter Haywood	
<b>3. Date EIA completed</b>	<b>Review date</b>
21 April 2017	
<b>4. Description and aims of policy / service (including relevance to equalities)</b>	
<p>The Council wishes to ensure that applications for the granting of Hackney Carriage licences are determined in accordance with the aim of maintaining public safety through having roadworthy vehicles, fit and proper drivers and appropriate conditions of hire. Many licensing authorities have recently encountered problems as a result of judgements such as that set out in <u>Newcastle City Council v Berwick upon Tweed Council [2008]</u>; this confirmed that Hackney Carriage drivers licensed in one local authority could legitimately act as Private Hire drivers in a separate local authority (without that second local authority having any direct control over such drivers through the licensing regime). In conjunction with other licensing authorities, one means of combatting this issue is – through an Intended Use Policy – to oblige all holders of a Hackney Carriage driver licence issued by South Ribble to confirm their bona fide intention to ply for hire predominantly within the area of South Ribble Borough.</p>	
<b>5. Who are the stakeholders?</b>	
Council officers	
All Councillors including in particular the members of the Council's General Licensing Committee	

All those who have or wish to have (i) Hackney Carriage drivers or vehicle licences, or (ii) Private Hire operator and driver licences

Various teams within the Council including Legal Services and Environmental Health (incorporating Licensing)

Other Borough Councils who may have also implemented an Intended Use Policy or may wish to be consulted in respect of good practice

## **6. What outcomes do we want to achieve?**

All holders of a Hackney Carriage driver licence issued by South Ribble confirming their bona fide intention to ply for hire predominantly within the area of South Ribble Borough.

## **7. How will performance be measured?**

Number of holders of a Hackney Carriage driver's licence issued by South Ribble Borough Council who have confirmed their bona fide intention to ply for hire predominantly within the area of South Ribble Borough.

Number of Number of holders of a SRBC Hackney Carriage driver's licence who are unwilling to confirm their bona fide intention to ply for hire predominantly within the area of South Ribble Borough.

## **8. Brief summary of research and background data**

There are 242 drivers currently licensed with the authority, of which 127 hold a Hackney Carriage Driver's licence.

## **9. Methods and outcome of consultation**

No consultation has yet been undertaken. It is proposed that locally licensed drivers should be given advance warning of the proposal to introduce a distinct Intended Use Policy via the Taxi Trade Forum. This will be followed by an official 28 day consultation period when the views of the trade will be formally sought.

## **10. Results of initial screening**

The following questions have been considered in order to evaluate the various equality groups:-

**Age – Is there any concern that these proposals could cause differential impact on the grounds of age?**

No concern.

**Disability – Is there any concern that these proposals could cause differential impact on the grounds of disability? Disability is recognised under the Equality Act as 'a physical or mental impairment which has a substantial and long term effect on a person's ability to carry out normal day to day activities.'**

No concern.

**Gender Reassignment – Is there any concern that these proposals could cause differential impact on the grounds of gender reassignment? The Equality Act recognises this where a person**

*is proposing to undergo, is undergoing, or has undergone a process (or part of a process) for changing sex.*

No concern.

**Marriage / Civil Partnership** – *Is there any concern that these proposals could cause differential impact on the grounds of marriage or civil partnership? Under the Equality Act, no such protection exists for single or unmarried people.*

No concern.

**Pregnancy / Maternity** – *Is there any concern that these proposals could cause differential impact on the grounds of pregnancy or maternity?*

No concern.

**Race** – *Is there any concern that these proposals could cause differential impact on the grounds of race? Race is recognised under the Equality Act as a person's skin colour, nationality or ethnic origin.*

No concern.

**Sex** – *Is there any concern that these proposals could cause differential impact on the grounds of gender? Including men, women and transgender people.*

No concern.

**Sexual Orientation** – *Is there any concern that these proposals could cause differential impact on the grounds of sexuality? Including heterosexual, gay, lesbian and bisexual people.*

No concern.

**Religion or belief** – Is there any concern that these proposals could cause differential impact on the grounds of religion or faith? All faiths recognised in the European Convention of Human Rights are included.

No concern.

A commentary has been provided for each policy where appropriate – see Appendix A

## **11. Links with the Council's Safeguarding Policy (please outline any implications and actions that need to be taken)**

Safeguarding matters relating to users of licensed hackney carriage / private hire vehicles (whether disabled or not) is a prime concern for the Licensing Authority. One of the drivers behind this approach is the attempt to ensure that local authorities have local control (through the licensing regime) over drivers operating within their borders. The more local authorities which adopt an Intended Use Policy, the more that problems caused by "out of town" drivers will diminish.

## **12. Decisions and / or recommendations (including supporting rationale)**

Members are asked to consider whether they wish to ask officers to explore implementation of the proposed policy.

**13. Is an Equality Action Plan required?**

No – see commentary in Appendix A below

## Appendix A – Results of initial screening

Policy / service	Protected Characteristics									Commentary
	Age	Disability	Gender reassignment	Marriage / civil p'ship	Pregnancy / maternity	Race	Religion or belief	Sex	Sexual Orientation	
Activation of elements of section 165 and 167 of the Equalities Act 2010 relating to wheelchair users –implications for Licensing Authorities	O	O	O	O	O	O	O	O	O	Minimal impact on the Equalities agenda.

Symbol	Impact
+	Positive
O	Neutral / Negligible
-	Negative
P	Potential issue

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# Agenda Item 8

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
PROPOSED REVISIONS TO LICENSING POLICY	DENISE JOHNSON

Is this report confidential?	No
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## 1. PURPOSE OF THE REPORT

Taking into account the outcome of the consultation exercise undertaken throughout August 2017 (summarised at appropriate sections of the text below), members are requested to consider the total of 14 proposed revisions to the existing Licensing Policy as set out in section 8 to this report below.

## 2. RECOMMENDATIONS

- 2.1 Members are requested to forward this report to the meeting of Council on 22 November 2017 with a recommendation for formal adoption of the 14 proposed revisions to the current Licensing Policy.

## 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 (along with feedback from the consultation exercises) are set out in section 8 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. .
- 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). These proposals were considered by members of the General Licensing Committee at their meeting in July 2017, when it was agreed that (subject to minor revisions now incorporated within this report) the suggested revisions should be subject to a consultation exercise. Further detail about the consultation exercise is given in the following section.

## **6. CONSULTATION / COMMUNICATION PLAN**

6.1 The report presented to members on 13 June 2017 set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

### **6.2 Publicising the consultation exercise:**

6.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- Proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- at the start of the consultation process a letter was sent to all drivers, proprietors and operators licensed with the Borough outlining the consultation areas under consultation and advising them of how responses may be submitted;
- Similar letters were sent to other interested parties including local disability groups; and
- Social media / tweets were used to further circulate information about the consultation.

### **6.3 The consultation exercise itself:**

6.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.

6.3.2 Officers held 2 drop in sessions, each of 90 minutes, at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

## **7. OUTCOME OF THE CONSULTATION**

7.1 Despite the efforts to promote the consultation exercise, on balance few responses were received. However, the drop in sessions can be said to have been a success, with the following attendees:

<b>Date of drop in session</b>	<b>Persons attending</b>
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

7.2 A log of all the consultation responses has been compiled for this consultation exercise. For ease of reference, a summary of consultation responses is included in the relevant part of the text below.

7.3 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

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

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

### **8.1 Requirements relating to licensed drivers**

#### **8.1.1 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.

However, members will recall that the BTEC Award in Transporting Passengers by Taxi or Private Hire is no longer available locally and has been replaced by the Level 2 BTEC certificate in Taxi and Private Hire Driver. Members will also recall the comments expressed on driver qualifications at the Taxi Trade Forum in July, when opposition to the proposed course was expressed.

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 appropriate 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".

#### **Proposed Change No 1 - summary of consultation responses received:**

- a total of 8 existing holders of a driver's licence have strongly objected to the prospect of them being obliged to undertake a professional qualification, at their own time and expense, feeling that they are "time served" and should be exempt from this requirement;
- several of the above drivers (plus others who had not otherwise responded) submitted a written petition on 31 August 2017 stating that "many drivers are time served, of long service and QBE. The cost implications of the course, loss of earnings and travel to and from Blackburn (currently) must be considered against minimal customer service quality improvements on established personnel."; and
- an operator confirmed his support for the positive impact driver training has had on the industry since it was introduced. However, he expressed concern at the cost of the current Level BTECH Certificate (£250 is a lot of money for somebody seeking employment) and the idea of a sitting a four day course, this is very daunting for some

applicants who may not be of an academic nature. The operator would support the ‘blue lamp’ approach and would be happy to assist in creating a local training policy run by SRBC as long it would be robust and obviously would include CSE, Customer Care, Passengers who need assistance , Road safety, defensive driving etc. As an alternative he would be happy to train ‘in house’ with monitoring from SRBC although it was accepted that this approach would not help training drivers from outside his company.

## **8.2 Requirements relating to licensed vehicles**

### **8.2.1 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.

**Proposed Change No 2 - summary of consultation responses received:**

- a petition of 12 licensed drivers suggested that many assistance dogs are poorly groomed, so the cost of cleaning should be built into the fare table for all passenger groups and communicated to them before the journey commences; and
- an operator confirmed his broad agreement with the proposal.

### **8.2.2 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.”

Proposed Change No 3 - summary of consultation responses received:

- an operator confirmed his broad agreement with the proposal.

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”.

Proposed Change No 4 - summary of consultation responses received:

- an operator confirmed his broad agreement with the proposal.

### **8.2.3 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. 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 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.”

#### Proposed Change No 5 - summary of consultation responses received:

- one driver who has paid £900 for clear windows will observe other vehicles to make sure they comply;
- an operator enquired whether the 70% rule be relaxed or changed slightly by around 5%. The company does not operate any executive hire type vehicles but would support the exemption for these type of vehicles; most clients for these vehicles usually demand ‘private glass’, obviously these vehicles could only be used for that type of work and must only be Private Hire.

#### **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 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.”

#### Proposed Change No 6 - summary of consultation responses received:

- an operator would support the exemption for these type of vehicles, as most clients for these vehicles usually demand ‘private glass’.

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 windscreens 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 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.”

### **Proposed Change No 7 - summary of consultation responses received:**

- None received

### **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.”

### **Proposed Change No 8 - summary of consultation responses received:**

- an operator would support the exemption for these type of vehicles, as most clients for these vehicles usually demand ‘private glass’.

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.

Proposed Change No 9 - summary of consultation responses received:

- None received

#### **8.2.4 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.”

Proposed Change No 10 - summary of consultation responses received:

- None received

#### **8.2.5 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.”

#### Proposed Change No 11 - summary of consultation responses received:

- one driver, and a petition signed by 12 other drivers, advocated that vehicle age limits should be increased to 6 years at first registration and 12 years maximum (though this was not the proposal under consultation); and
- an operator thought it may be simpler to say that all vehicles licensed for 4 seats should be on the “4 years from new / 8 years maximum age” rule and all vehicles of 5 seats or over should be on the “6 years from new / 8 years maximum age” rule (although again this is not the proposal under consultation).

#### **8.2.6 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+ Avocab 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 in new licensed vehicles so long as its accuracy is tested by a Licensing officer against a measured mile.”

#### Proposed Change No 12 - summary of consultation responses received:

- one driver expressed concern that the policy adopted in 2004 by GLC requiring meters to be calibrated against a maximum fare was not being followed, citing an incident several months ago when a 40p discrepancy had allegedly been discovered. Officers believe this to be an isolated incident involving a driver licensed by another local authority, with no other complaints received. Officers believe that digital taximeters are as secure and tamper-proof as other types of meter; and
- an operator agreed that the wording of the Policy needs bringing up to date.

#### **8.2.7 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.”

#### Proposed Change No 13 - summary of consultation responses received:

- an operator objected that this area needs clear guidelines. If an operator needs to purchase a multi seater vehicle they need to know what to look for in terms of the seating arrangement. Purchasing a vehicle not knowing if the licencing

officer may or may not allow it as a multi seater isn't practical. The rules need to be clear as to what is and isn't acceptable for licensing.

### **8.3 Requirements relating to licensed operators**

#### **8.3.1 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 online training is available via the Lancashire Safeguarding Children's Board (this being the same online training proposed for licensed drivers in another report on the agenda tonight). 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." "

#### Proposed Change No 14 - summary of consultation responses received:

- No response received

## **9. CONSULTATION EXERCISE – LEGAL ISSUES**

- 9.1 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 – any proposed Policy changes should be forwarded to full Council for ratification.
- 9.2 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.
- 9.3 It is proposed that a change to the Certificate of Roadworthiness (proposed change no 5) could be made immediately.

## **10. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION**

### **10.1 Comments of the Statutory Finance Officer**

There are no financial implications arising from this report.

### **10.2 Comments of the Monitoring Officer**

The legal implications have been identified within the body of the report.

<b>Other implications:</b>	
► <b>Risk</b>	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.
► <b>Equality &amp; Diversity</b>	None
► <b>HR &amp; Organisational Development</b>	None
► <b>Property &amp; Asset Management</b>	None
► <b>ICT / Technology</b>	None

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

None

SMT Member's Name: Denise Johnson

Job Title: Director of Development, Enterprise & Communities

Report Author:	Telephone:	Date:
Peter Haywood	01772 625578	27 September 2017

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# Agenda Item 9

REPORT TO	ON
GENERAL LICENSING COMMITTEE	17 OCTOBER 2017

September 2017



TITLE	REPORT OF
SAFEGUARDING TRAINING	DENISE JOHNSON

Is this report confidential?	No
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## 1. PURPOSE OF THE REPORT

- 1.1 Taking into account the outcome of the consultation exercise undertaken throughout August 2017 (summarised in section 9 below), this report invites members to recommend the formal adoption of a requirement for all new applicants for a driver's licence to complete appropriate online Safeguarding training prior to their application being granted; and for all licensed drivers to successfully re-take the above training prior to renewal of their licence and in accordance with certain criteria defined by the authority.

## 2. RECOMMENDATIONS

Members are requested to forward this report to the meeting of Council on 22 November 2017 with a recommendation for the replacement of the current section 5.9 of the Licensing Policy with new wording set out in section 10 of this report, which would have the effect of:

- 2.1 requiring all new applicants for a Hackney Carriage or Private Hire Driver's Licence to satisfactorily complete the online / e-learning training course on Child Sexual Exploitation (2017) run by the Lancashire Safeguarding Children's Board; and for all new applicants to provide proof of the successful completion of this online course as part of the application process;
- 2.2 requiring all drivers currently licensed with this authority to re-take and provide documentary evidence of successful completion of the above course prior to each subsequent renewal of their licence;
- 2.3 requiring all applicants (ie whether a new applicant or an existing licence holder seeking to renew their licence) to provide evidence of successful completion of the above course which is dated within a 3 month period prior to the date on which a new application or application for renewal is made;
- 2.4 requiring that, in all cases, the online test referred to above shall be taken under officer supervision at the Civic Centre and only upon production of proof of identity; and
- 2.5 requiring (on pain of suspension) any licensed driver to complete a training course within a reasonable period of up to 3 months when obliged to undertake one by the Licensing Authority.

## 3. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

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

#### 4. BACKGROUND TO THE REPORT

- 4.1 On 13 June 2017, members of the General Licensing Committee considered a report on proposed amendments to the Licensing Policy. One of the suggested amendments related to driver qualifications, and this led to a discussion on Safeguarding training which drivers / applicants should be required to attend. As a result, the Committee asked the Licensing Manager to explore this issue further. An update report was then presented to members at the meeting of the General Licensing Committee on 11 July 2017, where it was resolved that the proposal to require all applicants for a driver's licence to successfully complete an identified online learning course should be subject to formal consultation during August 2017.

#### 5. CURRENT POSITION

- 5.1 For all local authorities, the issue of Safeguarding (and ensuring that anyone coming into contact with children or vulnerable adults receives adequate training on the topic) is now of paramount importance. This is reflected in this authority's current Licensing Policy, which states at section 5.9:

"Licensed drivers are an integral part of modern life and as such play an important role in providing a safe means of transport to all members of society. Their role within our communities places them in direct daily contact with some of the most vulnerable members of our society and as such licensed drivers are ideally placed to assist all those agencies who have a statutory responsibility to safeguard the vulnerable. Drivers can be vulnerable and need to know how to protect themselves. For this reason the Council believes that it is appropriate for licensed drivers to undertake basic safeguarding training to enable them to recognise the signs and report suspicious behaviour appropriately as well as identify ways in which they can protect themselves. This training will be provided by the Council and must be taken before a new licence is granted. Existing licence holders must also undertake this training before their licence is renewed."

- 5.2 Accordingly, the Council has previously commissioned a reputable trainer to provide training on Safeguarding to all licensed drivers. This course was facilitated by a retired police officer with specialist Safeguarding knowledge, and was held over a number of sessions:

Date	Sessions
September 2016	5 sessions over 2 days
October 2016	3 sessions over 1 day
January 2017	2 sessions over 1 day

- 5.3 Section 5.9 of the existing Licensing Policy (as set out in paragraph 5.1 above) is also underpinned by current conditions. With regard to a Private Hire Driver's Licence, Condition 6a currently states:

"During the lifetime of a drivers licence, an Authorised Officer of the Council may require a licence holder to undertake reasonable and appropriate training to meet these expectations and requirements. Such a requirement would be in writing. A reasonable time scale of up to 3 months will be set for the training to be successfully undertaken at a place designated by the Council. If there is a refusal or failure to attend, or the licensed driver does not meaningfully participate in the training or attain the training accreditation

the licence may be suspended or revoked. The cost of such training will be borne by the licence holder.”

- 5.4 However, members should be aware that there is no directly equivalent provision for holders of a Hackney Carriage Driver’s Licence. As a result, there is no provision for the Licensing Authority to impose sanctions against Hackney Carriage drivers who, when required to do so, have failed to attend any training (whether CSE or otherwise). In order to correct this situation, officers are therefore asking members to consider a further revision to the existing Licensing Policy (details of which are given in paragraph 10.1 below).
- 5.5 A proposal to require licensed drivers to possess the Level 2 qualification (BTEC Level 2 Certificate in Taxi and Private Hire Driver) is set out in a separate report to this Committee. It is understood that this qualification does not contain a module on Safeguarding per se, but it does require successful candidates to have an appreciation of:
- ensuring that 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.
- If licensed drivers are also to be required to obtain a separate Safeguarding qualification, the training in the professional qualification should stand them in good stead.
- 5.6 In addition, the issue of dispatch staff employed by licensed operators and whether they too should be obliged to undertake Safeguarding training is also part of a separate report to this Committee.

## **6. DIFFICULTIES / CONCERNS**

- 6.1 It is understood that many Licensing authorities across Lancashire are struggling to obtain adequate access to Safeguarding training. This may seem surprising given the emphasis rightly placed on this matter by local authorities in recent years, but training providers who have previously supported South Ribble are no longer in the market to the same extent, and as a result it has proved difficult to ensure appropriate access to training. Consequently, other options must now be considered.

## **7. PROPOSED WAY FORWARD**

- 7.1 A number of possible options were identified for the delivery of Safeguarding training and put to members of the GLC in July 2017. However, members favoured the option of online training outlined below.

### **7.2 Online training – Lancashire Children’s Safeguarding Board**

Officers have recently established that a free module of online training is available via the website of the Lancashire Safeguarding Children’s Board:

<http://www.lancashiresafeguarding.org.uk/learning-development.aspx>

The course module is entitled Child Sexual Exploitation 2017 and is found under the “E-Learning” section of the above page. The course literature states:

“By the end of this course you will have:

- A basic understanding of what CSE is
- Knowledge of the pre-disposing factors for CSE
- Knowledge of the warning signs in children and young people of CSE
- Knowledge of what to do if they are concerned that a child/young person is being sexually exploited
- Knowledge of the 6 CSE teams in Lancashire
- Knowledge of some of the issues regarding offenders/sexual exploiters”

The course is free to take – applicants merely need to register online. There is an initial quiz which enables applicants to gauge their current level of expertise, followed by a series of presentations on the key aspects. Understanding is then assessed by a multiple choice question approach. A certificate can be printed at the end as proof of course completion; a specimen certificate in the name of the Interim Licensing Manager is attached as Appendix 1.

#### **7.3 Location of assessment**

In order to ensure that the risk of identity fraud was reduced to a minimum, members confirmed their support for the approach of requiring all applicants / drivers to (i) sit the test at a dedicated computer in the Gateway area and (ii) provide proof of their identity at the time of taking the test.

#### **7.4 Re-taking the test on renewal**

It is also suggested that all Hackney Carriage / Private Hire drivers currently licensed with the authority should be expected to re-take the course (and provide documentary evidence of successful completion) prior to subsequent renewal of their licence. If adopted, this would require drivers to be re-taking the course every 3 years.

#### **7.5 Time limits**

In either case (ie whether a new applicant or an existing licence holder seeking to renew their licence), applicants should be obliged to provide proof of passing this course within a period of 3 months immediately prior to application for a Hackney Carriage or Private Hire Driver's Licence.

### **8. CONSULTATION / COMMUNICATION PLAN**

8.1 The report presented to members on 11 July 2017 set out a proposed consultation plan. It can now be confirmed that the consultation plan as then presented was followed and a breakdown of consultation activity is given below.

#### **8.2 Publicising the consultation exercise:**

8.2.1 Officers went to considerable lengths to ensure that all interested parties were made aware that the consultation was taking place. Steps taken included:

- Proactively warning trade attendees at the Taxi Trade Forum on 13 July 2017 that the consultation was imminent;
- at the start of the consultation process a letter was sent to all drivers, proprietors and operators licensed with the Borough outlining the consultation areas under consultation and advising them of how responses may be submitted;
- Similar letters were sent to other interested parties including local disability groups; and
- Social media / tweets were used to further circulate information about the consultation.

### **8.3 The consultation exercise itself:**

- 8.3.1 The consultation documents were posted on the Council's website between 1 – 31 August 2017. Again, this gave details of the proposals under consultation and how responses may be submitted.
- 8.3.2 Officers held 2 drop in sessions, each of 90 minutes, at the Civic Centre on 15 and 17 August 2017. The purpose of these was to allow the trade or interested parties to call in without an appointment and discuss any aspect of the proposals with officers in informal surroundings.

## **9. OUTCOME OF THE CONSULTATION**

- 9.1 Despite the efforts to promote the consultation exercise, on balance few responses were received. However, the drop in sessions can be said to have been a success, with the following attendees:

<b>Date of drop in session</b>	<b>Persons attending</b>
15.8.17	6 drivers, 1 operator
17.8.17	1 driver

- 9.2 A log of all the consultation responses has been compiled for this consultation exercise. For the purposes of this report, a summary of the main submissions is set out below:

<b>Source:</b>	<b>Date:</b>	<b>Issue:</b>	<b>Council response</b>
Drivers 1-6	15.8.17	As existing licence holders, objected to having to re-take the Safeguarding training every 3 years	Safeguarding is important and this requirement will provide reassurance to the Council that the drivers know how to spot the signs of abuse and how to report them.
Driver 7	17.8.17	As above	As above
Petition signed by 12 licensed drivers		Every existing driver as of October 2016 attended a Safeguarding course at the civic offices, mandatory retesting on CSE every time driver badge renewed implies a lack of common sense and awareness on the part of the driver	
Operator	31.8.17	Broadly agrees with the proposal	

- 9.3 Members are invited to take the consultation responses into account when making their decision whether to adopt the documentation (as requested in section 2 above).

## **10. PROPOSED CHANGE TO LICENSING POLICY**

- 10.1 Should members agree with the recommendations in section 2 above, in order to implement these changes it will be necessary to amend the current Licensing Policy. A revised section 5.9 of the Policy is set out below for members to consider:

"Licensed drivers are an integral part of modern life and as such play an important role in providing a safe means of transport to all members of society. Their role within our communities places them in direct daily contact with some of the most vulnerable members of our society and as such licensed drivers are ideally placed to assist all those agencies who have a statutory responsibility to safeguard the vulnerable. Drivers can be vulnerable and need to know how to protect themselves. For this reason the Council believes that it is appropriate for licensed drivers to undertake basic safeguarding training to enable them to recognise the signs and report suspicious behaviour appropriately as well as identify ways in which they can protect themselves. This training is in the form of the online / e-learning training course on Child Sexual Exploitation (2017) run by the Lancashire Safeguarding Children's Board. (In the event that this course should be discontinued, applicants / drivers will be directed towards a replacement course which the Council considers appropriate).

Any new applicant for a Hackney Carriage / Private Hire Driver's Licence will be required to provide proof of successful completion of the above online / e-learning training course as part of their application process. Evidence of successful completion of other courses will not be accepted. Existing licence holders must also provide proof of successful completion of the above course before their licence is renewed (ie every 3 years). In either instance, any documentation provided as evidence of successful completion must be dated within a 3 month period prior to the date on which a new application or application for renewal was made.

Any current holder of Hackney Carriage or Private Hire Driver's Licence who has failed to attend a training course (on Safeguarding or any other matter) when obliged to do so by the Licensing Authority will be given a reasonable period (of up to 3 months) to complete the training course to the Council's satisfaction. If there is a refusal or failure to attend, or the licensed driver does not meaningfully participate in the training or attain the training accreditation, the licence may then be suspended or revoked. The cost of such training will be borne by the licence holder."

## 11. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

### 11.1 Comments of the Statutory Finance Officer

There are no financial implications to this report.

### 11.2 Comments of the Monitoring Officer

It is imperative that all drivers licensed by this authority attend CSE training as they are in direct daily contact with some of the most vulnerable members of our society. As such licensed drivers are ideally placed to assist all those agencies who have a statutory responsibility to safeguard the vulnerable. Drivers can also be vulnerable and need to know how to protect themselves.

Other implications:	
► Risk	CSE is a major risk to the authority and its residents, and it is appropriate for all licensed drivers to provide some evidence of understanding of CSE and its implications. This report seeks to address this issue.
► Equality & Diversity	None
► HR & Organisational Development	None

► <b>Property &amp; Asset Management</b>	None
► <b>ICT / Technology</b>	None

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

Appendix 1 – certificate of LSCB course completion

SMT Member's Name: Denise Johnson  
 Job Title: Director of Development, Enterprise & Communities

Report Author:	Telephone:	Date:
Peter Haywood	01772 625578	27 September 2017

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# CERTIFICATE of ACHIEVEMENT

This is to certify that

Andy Glover

has completed the course

Child Sexual Exploitation Awareness 2017

22 June 2017



Jane Booth, Chair,  
Lancashire Safeguarding Children Board



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