

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:

Date of drop in session	Persons attending
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 windscreen and front side windows. Rear windows and rear side windows must have a light transmission of at least 70%, irrespective of whether the vehicle was manufactured contrary to this standard. Limousines are excluded from the condition relating to rear and side windows.”

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

Proposed Change No 7 (Conditions)

Condition 14 be amended to read:

“Any Hackney Carriage vehicle which is first licensed 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+ Avacab vehicles) technically falling outside this definition. It is therefore suggested that this clause should be re-worded as follows:

Proposed Change No 12 (Policy)

The following wording will be added to paragraph 6.12:

“Alternatively, the use of a digital / GPS taximeter is acceptable 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 complains 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 a 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.

Other implications:	
▶ Risk	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.
▶ 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)

None

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