

At a Meeting of the LICENSING AND REGULATORY COMMITTEE held in the COUNCIL CHAMBER on MONDAY, 28th NOVEMBER, 2022 at 10:00am

Present:-

Councillor Fletcher in the Chair

Councillors Ali, Dodds, Donaghy, PWL Gibson, P. Gibson, Hartnack, Heron, Mann, Mordey, H. Trueman, M. Walker and A. Wood

Declarations of Interest

There were no declarations of interest.

Apologies for Absence

Apologies for absence were submitted to the meeting on behalf of Councillors Chisnall and G. Smith.

Minutes of the Last Meeting of the Committee held on 3rd October, 2022 Part I

1. RESOLVED that the minutes of the last meeting of the Committee held on 3rd October, 2022, Part I, (copy circulated), be confirmed and signed as a correct record.

Adoption of Statement of Private Hire and Hackney Carriage Licensing Policy

The Executive Director of City Development submitted a report, (copy circulated), which reported to the Committee the outcomes of the consultation exercise that had been undertaken concerning the Council's Draft Statement of Private Hire and Hackney Carriage Licensing Policy, (the "Draft Policy Document"), and which sought Members approval of the Final Statement of Private Hire and Hackney Carriage Licensing Policy, (the "Final Policy Document"), to be implemented with effect from 1st January, 2023.

(For copy report – see original minutes).

Councillor Fletcher welcomed all attendees to the meeting, including the following persons who had responded to the public consultation exercise on the Draft Policy Document and who had advised Mr Steve Wearing, (Principal Licensing Officer), that they wished to make representations to the Committee: Mr David Wilson, (acting on behalf of Taxi Cab Services (Sunderland) Ltd, trading as Blueline Taxis), and Mr Trevor Hines, (on behalf of the Taxi Association). At the request of Councillor Fletcher Mr David Thompson, (Solicitor), explained to the meeting the procedure that was to be followed at the meeting. Reference was made to the procedure contained in Appendix 3.

Mr Wearing firstly thanked all those Officers who had worked together on the intended licensing policy. He then presented the report and gave an overview of the background to the development of the report. He then provided a summary of the key points arising from the consultation responses which had informed the current, proposed Final Policy Document.

The Economic Prosperity Scrutiny Committee had been consulted at its meeting held on 27th September, 2022 at which Members had made comments about: the introduction of a dress code; the adoption of the DVLA Group 2 Medical Standard; changes to self-reporting of matters to the Council by licence holders; and changes to the window tint policy. These comments were set out at Paragraph 4.2 of the report.

The public consultation exercise had been extended to 10th October, 2022 from 26th September, 2022 due to the passing of Her Majesty the Queen. A total of 24 responses had been received from respondents during the 10-week consultation period.

Many of the respondents had suggested amendments to the Draft Policy Document. All of the received submissions, along with Officer responses, were set out within the extensive table shown at Appendix 1 of the report. The vast majority of the issues raised had been accepted and incorporated into amendments which produced the Final Policy Document which was set out in Appendix 2. The main issues raised by respondents were in relation to: the medical standard requirements for drivers; the introduction of the Driver Improvement Scheme; vehicle age limits and emissions standards; and window tints. The considerations given to these issues were set out at Paragraphs 4.8 to 4.22 of the Report.

The commencement date for the new window tint policy was proposed to be 1st December, 2022, as opposed to the default start date of 1st January, 2023. This was proposed due to there being applications outstanding to licence vehicles which would not comply with the current window tint policy, but which would comply with the new, proposed policy if introduced as from 1st January, 2023. The earlier start date for this policy would allow these vehicles to be licenced during December, 2022, with December traditionally being a busy time for the taxi trade.

Reference was made to the Hackney Carriage Zones within the Council's area. There were four zones, i.e. Sunderland, Hetton-le-Hole, Houghton-le-Spring and Washington. However, for administrative purposes the three zones of Hetton-le-Hole, Houghton-le-Spring and Washington were considered as a single zone.

Paragraph 4.23 of the report referred to matters which had not been included in the Draft Policy Document due to inadvertent omissions, but had been included in the Final Policy Document.

Mr Wearing advised of the intention to prepare an Annual Performance Review Report that would be submitted to the Committee at the second meeting of each calendar year, starting from the meeting on 30th January, 2023. This would focus on the matters set out in Paragraph 4.29 of the report. Mr Wearing explained that Point 9 is to be extended to cover the following: *"Any other information deemed to be of relevance to the Committee, including the identification of parts of the Policy*

Document which the Principal Licensing Officer believes should be subject to review”.

The Chair then invited questions of Mr Wearing from Mr Wilson.

Mr Wilson made reference to the Hackney Carriage Zones and stated that he had no preference for whether there was one zone, or multiple zones, but that he wanted to ensure that any zones were implemented correctly. He queried the age of vehicles where it was stated that vehicles over five years old would not be considered for initial licensing. He asked at what point the cut off was, i.e. would it be the day before a vehicle turned six years old. He stated that licensees would often buy vehicles after they had been leased cars and that the leases were now often for 48 months. Mr Wearing advised that the vehicles needed to be no more than five years old: the last day a vehicle would be eligible for licensing would be four years, 11 months and 30 days. Once a vehicle was five years and 1 day old it was then over five years old, so would not be eligible for initial licensing. It was accepted that the 2025 date for the implementation of this age policy was fast approaching and that depending on economic conditions it may be worthwhile reviewing this policy prior to then. There was a need to ensure that the age policy was in line with those of neighbouring authorities.

The Chair then invited Mr Hines to ask questions. Mr Hines advised that he had spoken with Mr Wearing outside of the meeting and that clarification had been provided on several queries. Mr Hines stated that he had been in the trade for over 50 years and had spoken to many drivers in that time and that he had worked to improve the reputation of the trade over the years. He and members of the trade had been dismayed by the statement made by the Department for Transport, (“DfT”), that the trade was “considered a high risk environment”, referencing abuse of children by people in the trade. He stated that unfortunately there had been activity of this type within the taxi trade, but that the statement of the DfT seemed to suggest that the whole trade was complicit in this, which was not the case. Mr Hines said that in Sunderland the trade had an excellent relationship with the authorities, including the Council and Police.

Mr Hines then referred to the issue of getting new licensed drivers into the trade. He said the DBS Checks took a significant amount of time to be completed, which often resulted in those looking to join the trade taking jobs in other industries, such as HGV driving, or parcel deliveries. He asked whether the Council, or the Local Government Association would be able to contact the Northumbria Police and Crime Commissioner to ask them to look into expediting the process. Mr Hines also stated that those he represented in the trade were happy with the proposed age limits and that he took on board what the DVLA said about the need for medical assessments.

Mr Wearing replied that it was difficult when DBS Checks were involved. He sympathised with the trade and the frustrations that it caused while waiting for checks to be returned. It was unfortunate that some checks would take a long time to be completed. Whilst he was not able to do anything to speed up the process, he advised that the DBS Update Service would allow for renewals to be completed more quickly, although noted that this did not address the issue for new applicants.

Mr Kyle Bennett, (Senior Licensing Officer), advised that there were various checks that the “DBS Service” needed to carry out. If an applicant had lived in different areas checks may need to be made with multiple Police Forces which could increase the time taken for the checks to be undertaken. The “DBS Service” was aware of the frustrations that the delays caused for applicants.

Councillor P. Gibson queried the consultation with Northumbria Police on the window tinting. He recalled that in the past Northumbria Police had been opposed to tinted windows on taxis, since it prevented them from seeing into the vehicle. Mr Wearing advised that the Police had been consulted and had raised no objection to the proposed window tint policy, so long as the legally required minimum light transmissions were met. Mr Wearing said that other authorities in the region allowed taxis to have window tints and that more vehicles were being built with factory fitted tinted windows. Consideration had originally been given to requiring CCTV to be fitted to vehicles with tinted windows. However, following discussions across the region it had been thought that this was not considered to be suitable. Had he been asked five to ten years ago he would have completely dismissed the idea of allowing tinted windows in licensed vehicles. However, his view had now changed and it was considered that the proposal was reasonable and proportionate.

Councillor A. Wood commented on the policy being a “living document” and asked how it would be updated and how requests for changes would be dealt with. He also asked that the Annual Performance Review Report include a summary of all requests for changes, including those which did not result in a change along with reasons for why a change was, or was not made.

Mr Wearing advised that there were regular meetings with the trade and with the regional authorities. Where there were requests to change the policy which Officers agreed should be supported then a report would be brought to the Committee to seek consideration of amending the policy. The “Annual Report” would include information detailing any representations and requests for changes received. Mr Thompson clarified that if substantive changes were proposed then a consultation exercise would be undertaken, with the received responses being considered by Officers and the Committee being asked to approve any proposed changes.

Councillor Mann expressed her shock at the comments made by the DfT which Mr Hines had referred to. She queried whether a letter could be written to the DfT. She then stated that delivering parcels was different to transporting people and this was why the DBS Checks were so important. She then referred to the number of responses to the consultation which she felt seemed to be quite low. Councillor Mann queries whether all of the responses were received from the trade. Mr Wearing advised that the majority of the received responses were from the trade. Mr Bennett confirmed that two responses had been received from outside of the trade. Mr Thompson, with the permission of the Chair, confirmed that the public consultation exercise had been undertaken in accordance with the requirements set out in the Statutory Taxi and Private Hire Vehicle Standards document, including the relevant organisations having been consulted. He thought the number of responses had been quite high for a public consultation of this type.

Councillor Mann then commented that she felt that the window tints should be allowed. She did not think that it would increase the risk of any issues if vehicles were to have tinted windows.

Councillor Ali asked whether anything could be done, such as contacting Northumbria Police and Crime Commissioner to try and expedite the process for DBS Checks to be undertaken. He also queried the taxi ranks in the vicinity of the train station and whether the ongoing works on the station had impacted the drivers who were licenced to use the ranks. Mr Wearing advised he would need to check this, adding that the taxi ranks were under review due to the wide redevelopment that was presently being undertaken within the city centre. He advised he could speak to the trade about any concerns they may have regarding the ranks. Mr Wearing stated that there was a need to ensure that all of the ranks were located in the correct place. It was important to note that the way passengers accessed taxis was changing, with an increasing number of people using Apps to book vehicles.

Councillor Hartnack commented that in other jobs which required DBS Checks there were risk assessments undertaken to establish whether it would be safe for people to work while awaiting their DBS Checks to be undertaken. For example, teachers not being left unsupervised with children until after the checks were completed. He queried whether measures such as CCTV could be used to allow people to drive while waiting for their DBS Check to be completed. Mr Wearing advised that there was a need to ensure that drivers were "*fit and proper persons*" to hold their licence and that the enhanced DBS Check was a key part of ensuring that an applicant was a fit and proper person. It was unfortunate that the checks could take some time.

Councillor M. Walker referred to the proposed Driver Improvement Scheme. He stated that the severity of failing the assessment needed to be made clearer, so that drivers knew that if they did not pass the course then they could be referred to the Committee with the potential for their licence to be suspended, or revoked.

The Chair then invited Mr Wilson to address the Committee. Mr Wilson thanked the Committee for being able to attend the meeting and to address the Committee, reporting that not all councils afford him such an opportunity. He stated he was in agreement with the request made by Councillor A. Wood for additional information to be included in the Annual Performance Review Report. He then made reference to the window tints policy and stated that as a former Local Authority Licensing Manager he had been against tinted windows and had attempted to bring in a policy to disallow them. He explained that he had been told that they were not a safety issue and that it was not possible to see into a vehicle with non-tinted windows at night anyway. He explained he had undertaken a survey in 2010 which had involved asking Police Forces for information about the link between tints and offences. Mr Wilson confirmed that there had been no offences recorded where the commission of the offence could be linked to the presence of tints. He said he was happy with the proposals for the Driver Improvement Scheme and the referrals to the Committee.

Mr Wilson referred to Condition 5 of Operator's Licences which stated that any sub-contracted vehicles needed to be of equivalent standard. He queried the necessity of this given that it had been stated so many times that all of the authorities would be applying equivalent standards. He also felt that it would be to the frustration of Parliamentary intention to implement this.

He then referred to exemptions for executive hire. In his view it was not viable for vehicles to be used exclusively for executive hire, so he felt that it should be possible for these vehicles to be used for normal private hire work, as well with the signage then being removed to allow executive work to be undertaken. The legislation did allow for this. He felt that other private hire vehicles should not be allowed removable signage, as there was an issue with drivers working for multiple operators which then made it look like there were more drivers available than there actually were. This resulted in passengers having their pick ups cancelled by drivers. He also referred to the hackney carriage zones in the Council area and stated that he believed there should either be one, or five zones, rather than the existing four.

Mr Wearing responded that he did not see any requirement to change the existing conditions around signage. Many private hire vehicles in the City did not display door signs with the operator choosing to display a roof sign instead and there was no requirement for a roof sign to be displayed. There were concerns about allowing executive hire and private hire to be undertaken by the same vehicles. This was because there was a need to identify where the changeover from executive hire to normal private hire was. He would discuss this with colleagues across the region.

Councillor P. Gibson commented that for the vehicles which had recently been granted licences for executive hire use the proprietor had not wanted to display any signage, including not displaying the private hire plate, or driver's ID badge. The vehicles in question were to be used exclusively for executive travel. These vehicles could not be used for private hire use as the driver would need to affix the plate to the vehicle before this use could be undertaken. He would not be happy to change the policy around executive hire. Mr Wilson replied that he wanted all private hire vehicles to be required to display door signs, but that he wanted, on a case-by-case basis, the ability to remove these signs to allow for part-time executive hire use.

Councillor Mann stated that it was not within the remit of the Committee to look at whether drivers were working for multiple operators. Mr Wilson stated that it was something that the Committee could look at and that some authorities did have restrictions on drivers only working for one operator at a time. He felt that it would undermine public safety to not have this requirement.

Councillor M. Walker stated that he appreciated the frustration that it could cause. However, he was concerned over the idea of restricting drivers to working for only one employer. Mr Thompson queried what operators could do to prevent drivers from accepting a job and then cancelling it to take another job for a different operator, with it possibly being an issue under a driver's terms of engagement.

Mr Wilson stated that some operators did prohibit driving for other operators and could terminate the employment of anyone found to be doing this. He said this was a less popular course of action for operators at present due to the shortage of drivers, i.e. terminating contracts would leave the operator with less drivers at their disposal. Many operators were now using technology to inform passengers where the driver was and there were cases where drivers were saying that they had attended and that there was no customer waiting. This could then lead to issues with getting another vehicle to the passenger when they contact the operator to say the driver had never arrived.

Mr Hines then addressed the Committee. As to DBS Checks he agreed with the suggestion of contacting Northumbria Police and Crime Commissioner, with a member of the trade having also made this suggestion too. There was no way that he would suggest not having DBS Checks undertaken. He said they were a necessity. He said there have been cases where an intended applicant had to wait up to 14 weeks for a DBS Check to come back. Recently, a driver on renewal, had waited 12 weeks for a DBS Check to be completed. During this time he had received a licence extension. However, the Education Department had not extended the school travel contract, meaning that the driver had lost a lot of work during this period.

Mr Hines commented that there was an apparent, current fashion for tints within the motor industry at the moment. Although he personally did not approve of tints, it was becoming increasingly difficult for drivers to find vehicles which did not have tinted windows, so the change in policy was welcomed by drivers. He said he had attended meetings with Police Officers working on Operation Sanctuary. According to Mr Hines they had been opposed to vehicles having tinted windows, since the ability to see into vehicles during daylight could help to prevent offences from occurring.

He said he represented Station Taxis and as an operator they did not allow drivers to work for multiple operators. Any driver wishing to work for multiple operators would need to end their employment with Station Taxis. Mr Hines said that to date no driver had chosen to leave to allow them to work for multiple operators.

Mr Hines said that since 1974 Sunderland had operated the four different hackney carriage zones and he did not see any issue with them. Durham County Council had abolished their zones. This had the initial consequence of taxis congregating in Durham city centre, which left areas such as Seaham with a shortage of vehicles. As a consequence of this customers in Seaham booked vehicles from Station Taxis, as they could not get a vehicle from a Durham based operator.

As to executive hire, Mr Hines said that private hire vehicles did not need to display any signage, other than the private hire plate. He said he could not understand why anyone would enter the executive hire industry if they only had one job per day as it would not be a viable business proposition.

The Chair gave Mr Wearing the opportunity to ask questions of Mr Hines. Mr Wearing did not have any questions to ask of Mr Hines.

Councillor Hartnack queried the statement that private hire vehicles did not need to display any signage, since he believed that there were strict requirements around the signage. Mr Hines advised that there was not a requirement to display any signage. Any signage displayed did need to comply with the requirements. Other authorities had different requirements with some not allowing roof signs to be displayed at all. Mr Wearing added that private hire vehicles could display a roof sign and that most did and that door signs were also optional. Hackney carriages were required to display a roof sign.

The Committee thanked Officers for all of their hard work in producing the policy. The Chair put the recommendations set out in Paragraph 2 of the report to the Committee.

With there being no proposed amendments raised, with all Members being in agreement it was:-

2. RESOLVED that:-

- a. The content of the report be noted and approval be given to the Final Policy Document set out in Appendix 2, with the Final Policy Document to take effect as from, and including, 1st January, 2023;
- b. Approval be given to the adoption of the policy on tinted windows, as set out in Paragraph 4.18 of the report, with effect from and including 1st December, 2022; and
- c. The consequential amendments that would be made by the Assistant Director of Law and Governance to the Scheme of Delegation in respect of the Executive Director of City Development, as set out in Paragraph 4.26, be noted and endorsed.

Local Government (Access to Information) (Variation) Order 2006

3. RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during consideration of the remaining business as it was considered likely to include the disclosure of exempt information relating to an individual and the financial or business affairs of a particular person (including the Authority holding that information). (Local Government Act 1972, Schedule 12A, Part I, Paragraphs 1 and 3).

(Signed) J. Fletcher,
Chairman.

Note:-

The above minutes comprise only those relating to items during which the meeting was open to members of the public.

Additional minutes in respect of further items are included in Part II.