

# **REPORT OF THE EXECUTIVE DIRECTOR OF CITY DEVELOPMENT**

## **LICENSING & REGULATORY COMMITTEE – 28 NOVEMBER 2022**

### **ADOPTION OF STATEMENT OF PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING POLICY**

#### **1.0 PURPOSE OF THE REPORT**

- 1.1** To report to the Committee on the outcome of the consultation exercise that was undertaken concerning the Council's Draft Statement of Private Hire and Hackney Carriage Licensing Policy, ("the Draft Policy Document"), and to seek Members' approval of a final Statement of Private Hire and Hackney Carriage Licensing Policy, ("the Final Policy Document"), to be implemented with effect from 1<sup>st</sup> January, 2023.

#### **2.0 DESCRIPTION OF DECISION**

- 2.1** The Committee is recommended to, :-

- (a) Note the contents of this Report and approve the Final Policy Document set out in Appendix 2, subject to any amendments the Committee may wish to make, such Final Policy Document to take effect as from and including 1<sup>st</sup> January, 2023;
- (b) Approve and adopt the policy on tinted windows as set out below in Paragraph 4.18 of the Report with effect as from and including 1<sup>st</sup> December; 2022; and
- (c) Note and endorse the consequential amendments that will 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 below.

#### **3.0 INTRODUCTION / BACKGROUND**

- 3.1** Members will recall that Reports have been previously considered at Meetings held on 28<sup>th</sup> September, 2020, 28<sup>th</sup> March, 2022, 25<sup>th</sup> July, 2022 and 3<sup>rd</sup> October, 2022 concerning the Council's plan to introduce a consolidated private hire and hackney carriage licensing policy. Such a licensing policy is required to be introduced following the publication of the Statutory Taxi and Private Hire Vehicle Standards Document issued by the Department for Transport, ("DfT"), in July, 2020, ("the Standards Document"). The DfT had expected councils to undertake the required reviews before 31<sup>st</sup> December, 2021, with changes being introduced as soon as possible in 2022. Unfortunately, as reported in the past, the Coronavirus Pandemic had a major impact upon the Licensing Section's intended workstream for the preparation of a Statement of Private Hire and Hackney Carriage Licensing Policy. Subject to the Committee's approval, the Council is now in a position to introduce its awaited consolidated private hire and hackney carriage licensing policy.
- 3.2** The work undertaken to produce the Final Policy Document has been one of the largest projects undertaken by the Licensing Section and has required a significant amount of Officer resource, with relevant support provided by

Officers from Law and Governance. The Policy Document is a very important document. Once approved and implemented, it should be seen as an “evolving” document, ie. one that may need to be amended from time to time, as may be required.

**3.3** The Report considered by the Committee on 25<sup>th</sup> July, 2022 advised about the Trade Group Liaison Meeting held at City Hall on 28<sup>th</sup> June, 2022. Representatives of all private hire operators, hackney carriage owners’ associations and independent drivers’ groups had been invited to attend this Meeting. A total of 18 trade representatives attended, plus Officers from the Council’s Licensing Section. The main purpose of the Trade Group Liaison Meeting was for Officers to recap on information previously provided about the Draft Policy Document via Taxi Newsletters and to explain the key proposals Members were to be asked to approve as part of the Draft Policy Document at the Licensing and Regulatory Committee Meeting of 25<sup>th</sup> July, 2022. This Trade Group Liaison Meeting was used as a pre-consultation exercise to enable informal discussions to be held on Officers’ proposals. The Principal Licensing Officer, (Mr. Steve Wearing), who attended the Trade Group Liaison Meeting, explained to attendees that the final matters to be consulted upon would be agreed by the Committee at its Meeting of 25<sup>th</sup> July, 2022.

**3.4** The following key proposals were raised at the Trade Group Liaison Meeting, with these matters subsequently forming part of Draft Policy Document considered by Members on 25<sup>th</sup> July, 2022, :-

- (a) The introduction of a new Code of Conduct for Licensed Drivers, which includes a Dress Code;
- (b) The proposed change in the medical requirements for drivers and the adoption of the DVLA Group 2 Medical Standard;
- (c) The introduction of a Driver Improvement Scheme for existing licensed drivers;
- (d) A change in the requirements regarding the reporting of matters to the Council on the part of existing licensed drivers, ie. the tightening-up of self-reporting obligations, including a shorter time period and extending the scope of matters to be reported;
- (e) The introduction of a revised convictions policy via the Convictions Policy and Assessment of Previous Convictions document;
- (f) A proposal to change the current arrangements regarding vehicle age limits and emissions standards;
- (g) A proposed new requirement for private hire operators to maintain a register of booking and dispatch staff, including the need to have sight of Basic DBS Certificates for all individuals listed on the register; and
- (h) A proposal to change the existing policy on vehicle tints that would allow the licensing of vehicles fitted with glass of a light transmittance lower than the current standard, subject to a requirement that a suitable CCTV system be installed in the vehicle.

**3.5** The Report considered by the Committee on 25<sup>th</sup> July, 2022 also addressed the issue of Council being recommended to amend the Terms of Reference of the

Committee and the Scheme of Delegation as it relates to the Executive Director for City Development in order for the same to be updated, including, amongst other things, express reference being made to the Committee having responsibility for the following matters, :-

- (a) Determination of the licensing objectives that will form the basis of the Council's Statement of Private Hire and Hackney Carriage Licensing Policy, with the licensing objectives being subject to regular reviews by the Committee as appropriate; and
- (b) Approval, review and amendment of the Council's Statement of Private Hire and Hackney Carriage Licensing Policy.

**3.6** Following some minor amendments to the Draft Policy Document about self-reporting, (ie. the 48 hour period to also include weekends, bank holidays, Christmas and any other public holidays), the Committee approved the following matters, :-

- (a) That the proposed Draft Policy Document be approved;
- (b) That a period of consultation be commenced with all private hire and hackney carriage licence holders and all other relevant stakeholders and consultees on the proposed Draft Policy Document, with the period of consultation commencing on 1<sup>st</sup> August, 2022 until 5.00pm on 26<sup>th</sup> September, 2022, ie. an eight week consultation period;
- (c) That the Economic Prosperity Scrutiny Committee be requested to provide its comments in response to the consultation, with the Draft Policy Document formally considered at its Meeting scheduled for 13<sup>th</sup> September, 2022;
- (d) That following Officers' appraisal of all responses received to the consultation a proposed Final Policy Document be presented to Committee for its approval at its Meeting scheduled for 31<sup>st</sup> October 2022;
- (e) Subject to the Committee's consideration and approval of the Final Policy Document, the Council's Statement of Private Hire and Hackney Carriage Licensing Policy be introduced as from and including 1<sup>st</sup> December, 2022; and
- (f) That Council be recommended to amend the Terms of Reference of the Licensing and Regulatory Committee and the Scheme of Delegation and Appointment of Proper Officers insofar as it relates to the Executive Director for City Development in order for the same to be updated as set out in Paragraph 3.5 above and to authorise the Assistant Director of Law and Governance to amend the Constitution accordingly, including the making of any consequential amendments.

**3.7** Public consultation on the proposed Draft Policy Document formally commenced on 1<sup>st</sup> August, 2022 and involved the following matters, :-

- (a) Consultation with hackney carriage and private hire licence holders, ie. drivers, proprietors and operators;
- (b) Consultation with those consultees that were listed in Appendix 1 of the Draft Policy Document;

- (c) Social media posts were issued about the Draft Policy Document. For example, those issued on : 1<sup>st</sup> August, 2022; 25<sup>th</sup> August, 2022; and 12<sup>th</sup> September, 2022;
- (d) A media statement about the consultation process was issued on 25<sup>th</sup> August, 2022;
- (e) Information about the consultation exercise was publicised via the Residents' e-Newsletter that is published by the Council; and
- (f) Information was also publicised on the following parts of the Council's website, ie. the taxi and private hire licensing parts of the Council's website.

**3.8** Following the passing of Her Majesty the Queen on 8th September, 2022 a period of national mourning was observed until the end of the day of Her Majesty's State Funeral on 19<sup>th</sup> September, 2022. As a mark of respect, Meetings of the Council were postponed until after Her Majesty's State Funeral. As a consequence of this, :-

- (a) The Economic Prosperity Scrutiny Committee Meeting of 13<sup>th</sup> September, 2022 was postponed and rescheduled to 27<sup>th</sup> September, 2022, the day after the consultation period was scheduled to close; and
- (b) The Council Meeting of 14<sup>th</sup> September, 2022 was postponed and rescheduled to 12<sup>th</sup> October, 2022, although unfortunately this Meeting also had to be cancelled due to closure of the City Hall as the result of an incident.

**3.9** Given the period of national mourning and the importance of the Economic Prosperity Scrutiny Committee having the opportunity to consider and provide comments on the Draft Policy Document, on 14<sup>th</sup> September, 2022 Mrs. Marion Dixon, (the Council's Environmental Health, Trading Standards and Licensing Manager), acting on behalf of the Executive Director of City Development, consulted with Councillor Fletcher, (Chair of the Licensing and Regulatory Committee), about extending the consultation period from 5.00pm on 26<sup>th</sup> September, 2022 to 5.00pm on 10<sup>th</sup> October, 2022. Councillor Fletcher agreed this proposal, which the Committee subsequently endorsed at its Meeting of 3<sup>rd</sup> October, 2022, enabling the Economic Prosperity Scrutiny Committee to consider the Draft Policy Document at its rescheduled Meeting of 27<sup>th</sup> September, 2022.

**3.10** With the consultation period being extended to 10<sup>th</sup> October, 2022, the following measures were undertaken after Her Majesty's State Funeral, :-

- (a) Members of the Licensing and Regulatory Committee and the Economic Prosperity Scrutiny Committee were advised about the extension and the reasons for the same;
- (b) The individual consultees were also advised about the extension and the reasons; and
- (c) A press release was issued via the Council's Press and Media Section.

**3.11** At its Meeting of 3<sup>rd</sup> October, 2022 the Committee formally endorsed the period of consultation being extended to 5.00pm on 10<sup>th</sup> October, 2022,

thereby extending the original consultation period by two weeks from eight weeks to ten weeks.

- 3.12** The Committee's Meeting scheduled for 31<sup>st</sup> October, 2022 was due to consider and approve the Final Policy Document. Unfortunately, the cancellation of the Council Meeting on 12<sup>th</sup> October, 2022 impacted on the progression of the Final Policy Document. At its Meeting of the 12<sup>th</sup> October, 2022 Council was being asked to amend the Committee's Terms of Reference in order to set out expressly the Committee's powers in relation to the intended Statement of Private Hire and Hackney Carriage Licensing Policy. Those amendments were to be agreed and implemented before the Committee Meeting of 31<sup>st</sup> October, 2022.
- 3.13** On 17<sup>th</sup> October, 2022 Mr. Wearing, acting on behalf of the Executive Director of City Development, consulted with Councillor Fletcher about deferring the Committee's consideration of the Final Policy Document until its Meeting of 28<sup>th</sup> November, 2022, so that Council could approve amendments to the Committee's Terms of Reference. Councillor Fletcher was in agreement to this and on 21<sup>st</sup> October, 2022 Members of the Committee were advised about the deferral.
- 3.14** At its Meeting of 16<sup>th</sup> November, 2022 Council approved the required amendments to the Committee's Terms of Reference.
- 3.15** All respondents and consultees were notified that the Committee would now be considering the Final Policy Document at its Meeting of 28<sup>th</sup> November, 2022, with the proposed implementation being deferred to 1<sup>st</sup> January, 2023.

#### **4.0 CURRENT POSITION**

- 4.1** At its Meeting of 27<sup>th</sup> September, 2022 the Economic Prosperity Scrutiny Committee, acting as a consultee, considered a Report setting out the key proposals contained within the Draft Policy Document. Members were asked to provide responses to the public consultation. Mr. Wearing and Mrs. Dawn Howley, (Senior Licensing Officer), presented the Report and were available to answer questions from Members.
- 4.2** Members of the Scrutiny Committee raised various questions about the Draft Policy Document. By way of a summary, the following comments were made, :-
- (a) Introduction of a new Code of Conduct for Licensed Drivers, which includes a Dress Code : Officers confirmed enforcement of the Dress Code would be reliant on members of the public reporting issues, or Licensing Officers observing issues whilst undertaking routine checks. It was explained that should issues about non-compliance with the Dress Code be raised then Officers would speak with the relevant driver in the first instance, providing advice and support. A driver would only be requested to appear before the Licensing and Regulatory Committee as a last resort;
  - (b) The proposed change in the medical requirements for drivers and the adoption of the DVLA Group 2 Medical Standard : a query was raised about the proposed requirement for a driver over the age of 65 to provide a medical report on an annual basis. It was queried whether this could be aligned to the

retirement age instead. It was advised that the DVLA Group 2 Medical Standard requires drivers over the age of 65 to provide a medical report on an annual basis;

- (c) A change in the requirements for self-reporting of matters to the Council on the part of existing licensed drivers, ie. the tightening-up of self-reporting obligations, including a shorter time period and extending the scope for matters to be reported : a Member referenced the requirement for drivers to notify of any arrests. It was queried whether a driver who had been arrested in a serious case, such as an allegation of rape, would be suspended immediately whilst investigations continued, or would they be considered innocent until proven guilty and allowed to continue to trade. Mr. Wearing explained that the Licensing Section may await the outcome of any ongoing Police investigation. However, depending on the seriousness of the case in question urgent action may need to be taken. By way of an example, it was explained that if a driver was under investigation in relation to an alleged sexual offence, the Executive Director of City Development has delegated authority to revoke a driver's licence with immediate effect. It was stressed that each case is considered based upon its individual circumstances; and
- (d) The proposal to change the existing policy on vehicle window tints that would allow the licensing of vehicles fitted with glass of a light transmittance lower than the current standard, subject to a requirement that a suitable CCTV system be installed in the vehicle : one Member commented that they felt this was an excellent proposal, since they believed this would allow "high-end vehicles" to be licensed, whilst still safeguarding passengers through the use of CCTV.

- 4.3 Following the Economic Prosperity Scrutiny Committee's consideration of the Report, it was resolved : *"That the Committee received the report and that their comments in response to the public consultation exercise on the Council's proposed Draft Statement of Private Hire and Hackney Carriage Licensing Policy be noted"*.
- 4.4 The extended public consultation period ended at 5.00pm on 10<sup>th</sup> October, 2022 and is considered to have been a productive exercise. A total of 24 responses were received from various respondents, including consultees. Several respondents submitted suggested amendments to the Draft Policy Document. The Council is grateful for the time taken by respondents to consider the Draft Policy Document and to then submit submissions for the Council's consideration. The consultation exercise was of central importance to the Council's desire to introduce a Statement of Private Hire and Hackney Carriage Licensing Policy. Submissions were received from two categories of respondents : individuals and organisations/ businesses.
- 4.5 All submissions received have been collated in a single document shown at **Appendix 1** and have been carefully considered and reviewed by Officers. The respondents' submissions have been set out in the middle column of the document, while Officer responses are shown in the right hand column.
- 4.6 As will be seen from the contents of **Appendix 1**, it is proposed that the vast majority of the issues raised by respondents be accepted, with corresponding amendments being made to produce the Final Policy Document which is shown at **Appendix 2**. The views of respondents have helped inform and model the intended

Final Policy Document. For ease of reference, where amendments are being proposed in relation to issues raised by respondents, where appropriate, the number of the relevant Paragraph contained in the Final Policy Document has been set out.

- 4.7** In terms of highlighting the main issues that were raised by respondents under the consultation exercise, these are considered below at Paragraphs 4.8 to 4.22 for the benefit of Members. The main issues relate to the following matters, :-
- (a) The medical standard requirements for drivers : see Paragraph 4.8;
  - (b) The introduction of a Driver Improvement Scheme : see Paragraphs 4.9 to 4.10;
  - (c) Vehicle age limits and emissions standards : see Paragraphs 4.11 to 4.12 ; and
  - (d) Window tints : see Paragraphs 4.13 to 4.22.
- 4.8** The proposed change in the medical standard requirements for drivers and the adoption of the DVLA Group 2 Medical Standard : some of the responses received raised concerns about the proposed requirement for a medical certificate to be provided annually once a driver reaches 65 years of age. However, this requirement forms part of the DVLA Group 2 Medical Standard that currently applies to private hire and hackney carriage drivers licensed by all other councils across the North East region. The proposal for the Council to adopt the DVLA Group 2 Medical Standard will therefore ensure that the medical standards apply to Sunderland's licensed drivers are in line with the medical standards applying to drivers licensed by other councils within the North East region. The adoption of the DVLA Group 2 Medical Standard is therefore sought.
- 4.9** The introduction of a Driver Improvement Scheme for existing licensed drivers : whilst some respondents made comments about the general principle of implementing a Driver Improvement Scheme, the main issue raised related to the entry level for when a driver is to be requested to undertake a driver improvement course. In summary, the entry level of six penalty points for Minor Driving Offences within a three-year period was seen as being too low, with a higher entry level being sought.
- 4.10** Officers have reflected upon the received submissions and have proposed consequential changes to the Driver Improvement Scheme, notably increasing the entry level from six penalty points, plus the ability to undertake a driver improvement course on a voluntary basis. The latter is a new addition. The revised proposals concerning the Driver Improvement Scheme includes the following matters, :-

**“Criteria 1 :**

1. Existing Licensed Drivers who accrue **more than six penalty points and up to nine penalty points** for Minor Driving Offences within a three-year period will be **requested** by the Principal Licensing Officer to undertake a driver improvement course. The Licensed Driver will be required to meet the cost of attending the course. If the Licensed Driver **refuses** to attend the course their case will be referred to the Licensing and Regulatory Committee by the Principal Licensing Officer for determination, with the Licensing and Regulatory Committee being asked to give consideration to the possible

suspension, revocation, or refusal to renew their Licence, as appropriate. For the avoidance of any doubt, the Committee could, if deemed appropriate, impose a period of suspension and direct that a Licensed Driver who has refused to undertake a driver improvement course to undertake such a course at their own expense, with their suspension ending on the date that they successfully complete the course, as opposed to them serving the full period of suspension as originally imposed by the Committee;

### **Criteria 2 :**

2. Existing Licensed Drivers who accrue **six penalty points and up to nine penalty points** for Minor Driving Offences within a three-year period may have their case referred to the Licensing and Regulatory Committee for determination instead of being requested to undertake a driver improvement course if the Principal Licensing Officer believes there are **aggravating factors** to justify this, with the Committee being asked to give consideration to the possible suspension, revocation, or refusal to renew their Licence, as appropriate. Depending on the circumstances of the case, they should have their Licence suspended for a maximum period of six months, or revoked. The Principal Licensing Officer will record the reasons why they believe aggravating factors apply. For the avoidance of any doubt, the Committee could, if deemed appropriate, impose a period of suspension and direct that a Licensed Driver who falls under this provision to undertake a driver improvement course at their own expense, with their suspension ending on the date that they successfully complete the course, as opposed to them serving the full period of suspension as originally imposed by the Committee;

### **Criteria 3 :**

3. Where Criteria 1, or Criteria 2 do not apply **and** complaints have been received by the Licensing Section regarding an existing Licensed Driver's alleged poor driving standards the Principal Licensing Officer **may** request the Licensed Driver to undertake a driver improvement course. The Licensed Driver will be required to meet the cost of attending the course. For the avoidance of any doubt, the Principal Licensing Officer will not unreasonably request a Licensed Driver to undertake a driver improvement course. The Principal Licensing Officer will record the reasons why they believe a driver improvement course should be undertaken. If the Licensed Driver **refuses** to attend the course their case may be referred to the Licensing and Regulatory Committee by the Principal Licensing Officer for determination, with the Licensing and Regulatory Committee being asked to give consideration to the possible suspension, revocation, or refusal to renew their Licence, as appropriate. For the avoidance of any doubt, the Committee could, if deemed appropriate, impose a period of suspension and direct that a Licensed Driver who has refused to undertake a driver improvement course to undertake such a course at their own expense, with their suspension ending on the date that they successfully complete the course, as opposed to them serving the full period of suspension as originally imposed by the Committee; and



#### **Criteria 4 :**

4. An existing Licensed Driver may, at their own request, undertake a driver improvement course on a voluntary basis, with them meeting the cost of attending the course. If the course is to be undertaken then they are required to notify the Licensing Section of this. This is to be done using the following e-mail address : [licensing@sunderland.gov.uk](mailto:licensing@sunderland.gov.uk)"

Reference is made to Pages 124 to 128 of Appendix 6 : Driver Improvement Scheme;

- 4.11** A proposal to change the current arrangements regarding vehicle age limits and emissions standards : Officers have considered the received responses. Particular concerns were raised about the impact of the proposed upper age limits for existing licensed vehicles. For example, it was proposed in the Draft Policy Document that as from 1<sup>st</sup> April, 2025 no vehicle licence be renewed, unless the vehicle is under eight years of age, plus the proposal that as from 1<sup>st</sup> April, 2027 no licence will be renewed for wheelchair accessible vehicles, unless the vehicle is under 10 years of age.

- 4.12** Officers have considered the issues raised by respondents, particularly in relation to the cost to replace a vehicle. Given the current "cost of living crisis", it is acknowledged that such costs issues are very important. Comparisons have also been made with vehicle age and emissions standard policies currently operated by other councils across the North East region. The revised proposals include those matters set out below, :-

"6.9 As to vehicles submitted for licensing as a Hackney Carriage, or Private Hire Vehicle **prior to 1<sup>st</sup> April, 2025**, the below existing age restriction provisions will continue to be applied, :-

- (1) Except for those vehicles that are considered to be "*exceptionally well maintained*", :-
  - (i) No vehicle over five years old, (ie. from the date of first registration), will be accepted for initial licensing;
  - (ii) No existing Licensed Vehicle, except those specified in (iii) below, will be accepted for further licensing once it has reached seven years of age from the date of first registration; and
  - (iii) No existing Licensed Vehicle licensed to carry five, or more passengers will be accepted for further licensing once it has reached ten years of age from the date of first registration;
- (2) All vehicles licensed outside of the provisions as specified in (1)(ii), or (1)(iii) above will, subject to the provisions set out in Section 50(1) of the Local Government (Miscellaneous Provisions) Act 1976, be subjected to three mechanical inspections per year;
- (3) In relation to the initial licensing of a vehicle "*exceptionally well maintained*" means that, :-
  - (i) The vehicle is in excellent mechanical condition;

- (ii) The vehicle is in all respects safe and roadworthy with no signs of corrosion to the mechanical parts, chassis, underside, or body work;
  - (iii) Evidence is produced, (ie. the vehicle service record), to demonstrate that the vehicle has been correctly and regularly serviced by a reputable garage in accordance with the manufacturer's service specification;
  - (iv) The exterior of the vehicle is in near perfect condition with no dents, damage, or signs of corrosion. The paintwork is in excellent condition;
  - (v) The interior of the vehicle is in near perfect condition. The upholstery, linings, seats and floor coverings are perfectly clean with no holes, tears, or signs of wearing; and
  - (vi) The boot, or luggage compartment is in good condition, clean and uncluttered.
- (4) In relation to existing Licensed Vehicles currently under consideration for the renewal of a Licence as either a Hackney Carriage, or Private Hire Vehicle, (but not those vehicles whose Licences have elapsed), "*exceptionally well maintained*" means that, :-
- (i) The Licensed Vehicle is in excellent mechanical condition;
  - (ii) The Licensed Vehicle is in all respects safe and roadworthy with no signs of corrosion to the mechanical parts, chassis, underside, or body work;
  - (iii) The Licensed Vehicle must have passed on first examination all of the Council's vehicle inspections since the last grant of a Licence as a Hackney Carriage, or Private Hire Vehicle;
  - (iv) The Licensed Vehicle must not have been the subject of any suspension notice issued by the Council in relation to a defective tyre, or any mechanical defect since the last grant of a Licence;
  - (v) The exterior of the Licensed Vehicle is in near perfect condition with no dents, damage, or signs of corrosion. The paintwork is in excellent condition;
  - (vi) The interior of the Licensed Vehicle is in near perfect condition. The upholstery, linings, seats and floor coverings are perfectly clean with no holes, tears, or signs of wearing; and
  - (vii) The boot, or luggage compartment is in good condition, clean and uncluttered.

6.10 As to vehicles submitted for licensing as a Hackney Carriage, or Private Hire Vehicle **on, or after 1<sup>st</sup> April, 2025**, the following age restrictions will apply as from and including the 1<sup>st</sup> April, 2025, :-

- (a) No vehicle will be granted an initial Licence, unless the vehicle is aged under five years of age;
- (b) No vehicle Licence, other than for a Minibus,(8 seat capacity), or a Wheelchair Accessible Vehicle, (WAV), will be renewed, unless the vehicle is aged under 10 years of age; and
- (c) No Minibus, (8 seat capacity), or WAV will be renewed, unless the vehicle is under 12 years of age".

Reference is made to Pages 52 to 54 of Section E : Hackney Carriage and Private Hire Vehicles; and

- 4.13** A proposal to change the existing policy on vehicle window tints that would allow the licensing of vehicles fitted with glass of a light transmittance lower than the current standard, subject to a requirement that a suitable CCTV system be installed in the vehicle. In terms of licensing of hackney carriages and private hire vehicles, the Council's current policy on windows tints is as follows, :-

"The glazing of any vehicle submitted for licensing as either a hackney carriage or a private hire vehicle must have a light transmittance as detailed below :

- i) Front windscreen; minimum light transmittance 75%;
- ii) Both front doors window glass; minimum light transmittance 70%;
- iii) All remaining vehicle glass behind the two front doors; minimum light transmittance of 35%

Note : A tolerance level of minus 4% is allowed in relation to the measured transmittance".

- 4.14** As Members will recall, on occasions in the past the Committee has approved the grant of a private hire vehicle licence in respect of a vehicle being used exclusively for "executive work" where the rear window glass gave a reading of less than 35% light transmittance. However, in granting such private hire vehicle licences the Committee has imposed certain conditions, including that the vehicle not be used in any contract, or provision for the carriage of any unaccompanied school children, or the carriage of any unaccompanied child / children, or young person(s) that are under age 18 years of age at the date of such carriage.

- 4.15** Within the Draft Policy Document, whilst it was proposed that there be no change in respect of the above specifications relating to the use of tinted windows in licensed vehicles, it was stated "that the minimum light transmission specifications can be relaxed in the following circumstances, :-

- (i) When the vehicle is a limousine, novelty vehicle, or executive hire vehicle operating under an Exemption Notice;
- (ii) The vehicle will not be engaged at all in any contract, or provision of vehicle for the carriage of unaccompanied children / young persons, (under age 18 unless accompanied by an adult other than the driver); and
- (iii) Written approval has been given by the Council".

Notwithstanding the above, having regard to the latest DfT draft Guidance relating to "Taxi and private hire vehicle : best practice guidance to assist licensing authorities" the Council will not require any licensed vehicle to adhere to the minimum tint specifications where the vehicle is fitted with a CCTV system.

- 4.16** Officers have considered the consultation responses received in respect of window tints and account has also been taken of policies implemented by neighbouring councils regarding this. There is a general move towards a relaxation of restrictions relating to the licensing of vehicles fitted with tinted window glass. It is generally felt that there is no evidence that the presence of tinted glass in a licensed vehicle

causes a risk to public safety. Moreover, it is also now common for vehicle manufacturers to produce vehicles with factory fitted tinted window glass fitted as standard. Consequently, restrictions imposed by councils on the licensing of vehicles with tinted window glass is becoming particularly burdensome to applicants proposing to license vehicles that may often be of a high-end standard, but may not be accepted for licensing due to the existence of a restrictive window tint policy. It is accepted that the replacement of the glass to comply with current conditions could come at a considerable financial cost for vehicle owners.

- 4.17** The emergence of environmentally friendly electric vehicles is also a factor that needs to be taken into consideration, since such vehicles are typically manufactured with tinted glass as standard to help keep the passenger compartment cool, which helps to reduce the need to use air conditioning, helping the vehicle to save its electric charge.
- 4.18** Taking into account the issues detailed in Paragraphs 4.15 to 4.17 above, it is now becoming more common for councils to modify their policies on vehicle window tints and to allow the licensing of vehicles with manufacturer fitted window glass. The following policy is therefore proposed in respect of tinted windows within the Final Policy Document, :-

“As from and including **1<sup>st</sup> December, 2022** the Council’s specification relating to the use of tinted windows in Licensed Vehicles is as follows, :-

- (a) The windscreen is to have a minimum light transmission of 75%;
- (b) All other front windows are required to have a minimum of 70% light transmission;
- (c) Beyond the B pillar only vehicle manufactured body tinted glass will be permitted to be used. The tinted glass must be part of the whole vehicle design when produced and pre-registered for that model and specification. In the event that such glass is required to be replaced for any reason, then it must be replaced with glass that is equivalent to the originally fitted vehicle manufactured body tinted glass;
- (d) No tinted glass whether manufactured, or otherwise will be permitted to be added to a vehicle retrospectively following vehicle manufacture completion; and
- (e) No retrospective tint application, or film will be permitted to be applied to vehicle glass under any circumstances”.

Reference is made to Page 60 of Section E : Hackney Carriage and Private Hire Vehicles and to Pages 130 to 131 of Appendix 7 : Hackney Carriage and Private Hire Vehicle Specifications.

- 4.19** It is to be noted that discussions have been held with Northumbria Police regarding the proposals set out in Paragraph 4.18. The Police have confirmed that they have no reason to oppose the specifications that have been proposed, provided that the tints are within legal permitted levels for vehicles that are driven on a public road.
- 4.20** In the event that Members approve the new, proposed window tint policy, it is also proposed that upon the grant of a private hire licence for the vehicle fitted with tinted glass beyond the B pillar there should be no restriction on the carriage of unaccompanied children, or young persons under the age of 18 years of age. Consequently, it is proposed that the following Condition, as was set out in

Paragraph 4 of Appendix 10 of the Draft Policy Document relating to Conditions for Executive Vehicles no longer be required, ie. *“The Vehicle must not be used in any contract, or provision for the carriage of any unaccompanied school children, or the carriage of any unaccompanied child / children, or young person(s) that are under age 18 years of age at the date of such carriage”*. If approved, this Condition, where it is currently applied, will be disappplied, with proprietors being notified accordingly. At the date of this Report, only two vehicles are impacted by this.

- 4.21** If this new window tint policy is to be implemented and it is found that issues arise regarding a connection between tinted windows and passenger safety issues, then it will be possible for the policy to be subject to a review, should that be deemed appropriate. The Standards Document stresses the importance of reviews in order to respond to incidents.
- 4.22** Members will note that the commencement date for the new window tint policy is 1<sup>st</sup> December, 2022, as opposed to the default start date of 1<sup>st</sup> January, 2023. An earlier commencement date is being sought due to applications that have been received from proprietors of intended licensed vehicles that do not presently meet the window tint specification as it currently applies, but such vehicles would comply with the proposed, new policy that is sought to apply as from and including 1<sup>st</sup> January, 2023. Having an earlier start date for the new window tint policy would enable the vehicles in question to be licensed, (plus any other views that are presented for licensing between the dates 1<sup>st</sup> December to 31<sup>st</sup> December, 2022), thereby allowing additional vehicles to operate during the month of December, 2022, if so licensed. As Members will appreciate, December is traditionally a busy time for the taxi trade, with January being a “slow month”.
- 4.23** Following the ending of the consultation period, as part of the work to finalise the Final Policy Document it was noted that some key issues for which provision should be made had inadvertently been omitted from the Draft Policy Document. These issues are highlighted below, :-
- (a) In Section C of the Final Policy Document a new Paragraph 15 has been added regarding the Council’s Whistle Blowing Policy. Reference is made to Pages 21 to 22 of the Final Policy Document. This has been included to show compliance with Paragraph 3.8 of the Standards Document, ie. *“Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly”*;
  - (b) As to the Private Hire Operator’s Conditions, (Appendix 11), the following is brought to Members’ attention, :-
    - (i) Condition 4(e) has been added : *“Due to the potential for nuisance to residents associated with the parking of vehicles whilst they are waiting to be allocated work Private Hire Operators are required to identify specific locations as bases where vehicles waiting for bookings are to be parked”*. This condition had been referenced in the Draft Policy at Paragraph 11 of Section F, but the required condition had not been added to the Private Hire Operator’s Conditions. Reference is made to Page 153 of the Final Policy Document; and
    - (ii) Condition 5 has been added : *“Private Hire Operators are only permitted to operate Hackney Carriage and Private Hire Vehicles and Drivers that are licensed by the Council, unless they are*

*subcontracting to another Private Hire Operator outside the controlled area of Sunderland. Where such subcontracting occurs the Private Hire Operator must ensure that the Hackney Carriage and Private Hire Vehicles operated by the subcontractor are of an equivalent standard required by the Council*". Again, this condition has been referenced in the Draft Policy at Paragraph 11 of Section F, but the condition had not been added to the Private Hire Operator's Conditions. Reference is made to Page 154 of the Final Policy Document; and

- (c) The self-reporting obligations have been applied to all licence holders, not just drivers. Reference is made to the following parts of the Final Policy Document, :-
- (i) Appendix 8 and Schedule of Conditions Applied to Hackney Carriage Vehicle Licences– Condition 16 and Pages 139 to 140;
  - (ii) Appendix 9 and Schedule of Conditions Applied to Private Hire Vehicle Licences – Condition 13 and Pages 146 to 147; and
  - (iii) Appendix 11 and Private Hire Operator's Licence Conditions – Condition 8 and Pages 154 to 155.

Such an extension of the self-reporting requirements accords with the provisions set out in Paragraph 4.12 of the Standards Document, where it states that : "*Licence holders should be required to notify the issuing authority within....*".

- 4.24** The proposed Final Policy Document that has been prepared having due regard to amendments made following consideration of received submissions from respondents, (as shown in **Appendix 1**), is attached at **Appendix 2**.
- 4.25** Members are also advised that some of the respondents who have submitted submissions may wish to attend the Meeting of 28<sup>th</sup> November, 2022 in order to address the Committee on their submissions and the Final Policy Document. A copy of the Procedure that is to be applied at the Meeting, so that they can address the Committee, is shown in **Appendix 3**.
- 4.26** In the event that a Statement of Private Hire and Hackney Carriage Licensing Policy is approved by the Committee, the Committee is requested to note the consequential amendments that will be made to the Scheme of Delegation in respect of the Executive Director of City Development by the Assistant Director of Law and Governance, so that the relevant delegations to the Executive Director will be as set out below, or in substantially similar terms, namely, :-

To exercise the functions of the Council relating to hackney carriages and private hire vehicles, including but not limited to : granting, issuing, renewing, refusing to renew, suspending, or revoking licences, including the immediate suspension, or revocation of a driver's licence pursuant to Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976; requiring proof of insurance of a hackney carriage, or private hire vehicle; inspection and testing; issuing notices to require further inspection; suspending vehicles; checking drivers' suitability; and undertaking enforcement of all legislation relating to hackney carriages and / or private hire vehicles, including cross-border hackney carriage and private hire

vehicle enforcement, provided that the following matters will be referred to the Licensing and Regulatory Committee for consideration and / or determination, :-

- any matter which the Executive Director considers would more appropriately be dealt with by the Committee;
- the setting of fares and other charges chargeable in respect of hackney carriages under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976;
- determination of the licensing objectives that will form the basis of the Council's Statement of Private Hire and Hackney Carriage Licensing Policy, with the licensing objectives being subject to regular reviews by the Committee, as considered appropriate;
- initial approval and the subsequent review, (at such times as the Committee considers appropriate, which may be on a periodic basis and / or in response to specific issues), of the Council's Statement of Private Hire and Hackney Carriage Licensing Policy and the making of revisions to the Policy, as considered appropriate; and
- existing licensed drivers, where they have refused to undertake a driver improvement course operated under the terms of a Driver Improvement Scheme.

**4.27** In the event that a Statement of Private Hire and Hackney Carriage Licensing Policy is approved by the Committee, the Committee is also advised of the following consequential steps that will be taken by the Licensing Section, :-

- (a) A copy of the Final Policy Document will be added to the Council's website, ie. that part relating to taxi and private hire licensing matters;
- (b) A link to the Final Policy Document will be shared with existing licensees, together with covering information, including how any queries regarding the Policy Document can be raised with Officers from the Licensing Section. This is to be done via email and by text message;
- (c) A link to the Final Policy Document will be shared with those Councillors who are members of the Licensing and Regulatory Committee;
- (d) A training session will be arranged for the benefit of Councillors who are members of the Licensing and Regulatory Committee, regarding the application of the Final Policy Document at Committee Meetings. This training session will take place during December, 2022;
- (e) The Final Policy Document will be publicised via press release, plus on social media;
- (f) A link to the Final Policy Document will also be shared with consultees; and
- (g) The DfT will be advised about the implementation of the Council's Statement of Private Hire and Hackney Carriage Licensing Policy.

**4.28** The Committee is also advised that as from and including January, 2023 an Annual Performance Review Report is to be presented to the Licensing and Regulatory Committee concerning private hire and hackney carriage matters. It is proposed that this Report, (which it is anticipated will be a "Part I" Report), will be presented at the second Meeting of each new calendar year, with the first Report being considered at the Meeting scheduled for 30<sup>th</sup> January, 2023.

**4.29** The Annual Performance Review Report for 2023 will focus upon the following matters relating to the period 1<sup>st</sup> January, 2022 to 31<sup>st</sup> December, 2022, (with subsequent Reports focusing on the period 1<sup>st</sup> January to 31<sup>st</sup> December of the previous year), :-

1. The number of Licensing and Regulatory Committee Meetings held;
2. The number of Applications and Renewals considered by Officers and the Committee, plus outcomes;
3. The number and types of licences granted by Officers and the Committee, plus outcomes;
4. The number of cases considered by the Executive Director of City Development under delegated powers to consider the immediate suspension, or revocation of licences to drive hackney carriage and private hire vehicles, plus outcomes;
5. Information about the number of complaints received and the outcomes of those investigations, ie. from passengers, or other Licensees. The purpose of this would be to identify whether there are any identifiable trends and, if so, so that appropriate remedial action can be taken;
6. Information about the sanctions that have been imposed at Officer level and by the Committee, namely the number of warnings; severe warnings; suspensions, (immediate and non-immediate); and revocations, (immediate and non-immediate);
7. The number of appeals presented to the Magistrates' Court and the Crown Court, plus outcomes;
8. Information about the Driver Improvement Scheme : referrals at Officer level; referrals by the Licensing and Regulatory Committee; and self-referrals by Licensed Drivers; and
9. Any other information deemed to be of relevance to the Committee.

**4.30** The identified nine areas will hopefully provide an informative summary of the work of the Licensing Section and the Committee across each 12 month period that is considered. Moreover, the introduction of the intended Annual Performance Review Report links in with Paragraph 3.5 of the Standards Document : *“One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually**”.*

**4.31** In the event that a Final Policy Document is approved by the Committee, the Council's second Statement of Private Hire and Hackney Carriage Licensing Policy would be due to be adopted in time for application from 1<sup>st</sup> January, 2028 to 31<sup>st</sup> December, 2032. A work plan will be diarised to ensure that the Council schedules the necessary preparatory work in order to be in a position to meet this timescale.



## **5.0 REASONS FOR THE DECISION**

**5.1** The Committee is being asked to approve the matters set out in Section 2 above of the Report to enable the Council to introduce a consolidated private hire and hackney carriage licensing policy as required by the Statutory Taxi and Private Hire Vehicle Standards Document issued by the Department for Transport in July, 2020.

**5.2** The Standards Document states the following, :-

- (a) *“The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. The should include but not be limited to policies on convictions, a ‘fit and proper’ person test, licence conditions and vehicle standards”* : Paragraph 3.1; and
- (b) *“When formulating a taxi policy and private hire policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated”* : Paragraph 3.2.

It is believed that the Final Policy Document achieves these two important matters.

## **6.0 ALTERNATIVE OPTIONS**

**6.1** There are no alternative options. The Council is required to introduce a Statement of Private Hire and Hackney Carriage Licensing Policy, thereby complying with the requirements of the Standards Document. The non-introduction of a Licensing Policy is not an option.

## **7.0 RELEVANT CONSIDERATIONS**

**7.1** None submitted.

## **8.0 GLOSSARY**

**8.1** No acronyms, or abbreviations have been used in this Report.

## **9.0 APPENDICIES**

**9.1** **Appendix 1** – Responses Received on Public Consultation on Proposed Statement of Private Hire and Hackney Carriage Licensing Policy;  
**Appendix 2** – Proposed Final Draft Statement of Private Hire and Hackney Carriage Licensing Policy; and  
**Appendix 3** – Procedure to be Followed by the Licensing and Regulatory Committee.

## **10.0 BACKGROUND PAPERS**

**10.1** Statutory Taxi and Private Hire Vehicle Standards Document issued by the Department for Transport in July, 2020.