

Council

7 December 2022



**Review of the Council's Hackney
Carriage and Private Hire Licensing
Policy**

Ordinary Decision

Report of Corporate Management Team

**Alan Patrickson, Corporate Director of Neighbourhoods and
Climate Change**

**Councillor John Shuttleworth, Cabinet Portfolio Holder for Rural
Communities and Highways**

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To request Council approval of the revised Durham County Council's Hackney Carriage and Private Hire Licensing Policy, referred to as the "taxi policy" and their recommendation for adoption by Council.
- 2 To consider further changes to the revised taxi policy made by General Licensing and Registration Committee (GLRC) resulting from a second, 4-week consultation that took place between Monday 20 June and Sunday 17 July 2022. The final version of the taxi policy, as modified by GLRC is shown in Appendix 2.

Executive summary

- 3 The current Durham County Hackney Carriage and Private Hire Licensing Policy was initially adopted by the Council in April 2016. The policy was further amended in April 2018.
- 4 The current taxi policy provides that the Council will review it every five years and will also make such revisions to the policy, as it considers appropriate and publish it accordingly.
- 5 Consultation on the existing policy and proposed changes is integral to the overall policy review process, leading to the adoption of a revised

policy by Council. A full, 12-week public consultation originally took place between September 2020 and November 2020 and following the consultation, the responses were collated, assessed, and considered by officers.

- 6 Proposals were presented to GLRC on 13 September 2021 concerning:
 - (a) the possible introduction of new vehicle age restrictions and updated engine emission standards;
 - (b) changes to the policy on the determination of suitability of applicant and licence holders for vehicle, driver and operator licences associated with the adoption of standards developed and promoted by the Institute of Licensing (IOL);
 - (c) introduction of disability awareness training and subsequent refresher training for this subject and for the existing safeguarding awareness training including child sexual exploitation (CSE) awareness;
 - (d) changes to officer delegations to enable immediate revocation of hackney carriage and private hire driver licences by senior officers subject to specific criteria and control measures;
 - (e) the incorporation of newly published statutory taxi and private hire vehicle standards;
 - (f) intelligence led and random drug and alcohol testing;
 - (g) the introduction of driver improvement schemes;
 - (h) Contract exemptions.
- 7 In March 2022, Members requested a further, 4-week public consultation in relation to the version of the policy previously agreed by GLRC to consider the impact of coronavirus on the trade and passengers as part of the policy review.
- 8 A second consultation exercise was undertaken between Monday 20 June and Sunday 17 July 2022.
- 9 The results of this consultation were presented to GLRC on 17 November. At that committee meeting, Members modified the proposed policy in relation to requirements for vehicle emissions, fire extinguishers and first aid kits. They also agreed to recommend to Council the adoption of the modified policy, to come into operation on 1 January 2023.

- 10 Council is requested to consider the contents of this report and confirm the revised version of the taxi policy as recommended by GLRC.

Recommendation(s)

- 11 Council is recommended to:
- (a) consider this report together with the proposed revised taxi policy; and
 - (b) agree to adopt the final version taxi policy, to come into operation on 1 January 2023, as recommended by GLRC.

Background

- 12 The Policy Review - The existing Hackney Carriage and Private Hire Licensing Policy was adopted by the Council in April 2016. The policy was amended in 2018 because of changes to immigration legislation.
- 13 Following its last revision, several matters in the policy had been identified that needed to be considered as part of a policy review. The initial proposed revision included several significant and potentially contentious matters associated with both licensed vehicles and their drivers including:
 - 14 As a result of the Covid-19 pandemic and the initial countrywide lockdown, the original planned date for the start of public consultation on the taxi policy proposals was postponed from June to September 2020. This delayed consultation period ended on Sunday 29 November 2020.
 - 15 The outcome of the initial consultation exercise together with several additional changes to the initial proposals were reported to GLRC on 13 September 2021.
 - 16 The GLRC was asked to consider and make decisions on their appropriateness for inclusion in the proposed revised taxi policy the following matters:
 - (a) Vehicle Emissions and Manufacture Criteria – whether to accept and recommend proposals which included an age policy or to extend and update our existing policy based purely on manufactures emission standards. The proposal did not receive strong support from the taxi trade during the initial consultation process. Regionally, despite differences in Council policies, there is a drive for authorities to include this form of policy to reduce emissions and improve air quality. GLRC recommended a revised policy based solely on Euro vehicle emission standards in line with current policy;
 - (b) Locality tests – whether to keep locality (topographical) testing and a requirement for both hackney carriage and private hire drivers; or to discontinue its application for both or either type of licenced driver. GLRC recommended removal of the requirement for prospective private hire drivers to undergo topographical/locality testing;
 - (c) Removal of the policy requirements to carry fire extinguishers and first aid kits in licensed vehicles - whether licensed vehicles should have to carry these items. GLRC recommended maintaining these requirements for licensed vehicles;

- (d) Zero or reduced fee charges for electric vehicles, balanced out with higher fees for more polluting vehicles or by subsidy – whether changes to licence fees would be appropriate taking into consideration funding arrangements for taxi licensing and Licensing Services. GLRC recommended maintaining current fee setting arrangements in-line with existing financial management processes;
- (e) Adoption of a new policy on offences – whether to adopt the Institute of Licensing (IOL) policy standards in full or in part. We considered alternatives suggested by respondents to the initial consultation and concluded that no compelling reasons for departure from the proposed policy which is in line with the new Statutory Taxi and Private Hire Vehicle Standards. We proposed to incorporate the IOL standards in part but not in relation to the section on minor motoring offences or motoring offences involving disqualification. GLRC recommended the proposals as incorporated in the proposed revised policy;
- (f) Safeguarding including child sexual exploitation (CSE) and disability awareness and refresher training to be included in the proposed policy and if so, at what frequency – Currently disability awareness training is not part of the application process. It was proposed that for new applications, all prospective drivers to have undergone disability awareness training and for existing licensed drivers by a specified date and that all licensed drivers must undergo disability awareness refresher training before their licence is renewed, if they have not already received disability awareness training (or disability awareness refresher training) within the previous 3 years. GLRC recommended the proposals as incorporated in the revised policy for Safeguarding (CSE) and DA training and periodic refresher training;
- (g) CCTV in taxis - Taking into consideration all responses of the initial consultation and arguments relating to the question about whether all taxis and private hire vehicles should have internal CCTV fitted as standard, we propose to keep the existing policy in relation to the fitting of CCTV in licensed vehicles as it is and not to mandate its installation as standard in all licensed vehicles – GLRC recommended no change to existing policy requirements and do not propose its inclusion as a mandatory feature of taxi licensing;
- (h) Contract exemption for displaying decals etc. – although we proposed no change to policy, Members considered reducing the number of days required to be considered for an exemption. GLRC recommended relaxation of the current rules with

arrangements to be made at application on a case-by-case basis in conjunction with the Chair and Vice Chairs of GLRC.

- 17 The revised taxi policy agreed by GLRC was scheduled for reporting to full Council on Wednesday 8 December 2021 but was deferred until Wednesday 26 January 2022. The report was then deferred again at that meeting.
- 18 In March 2022, Members sought to carry out a further, 4-week public consultation in relation to the previously agreed version of the policy.
- 19 On 28 March 2022, the Government embarked on a consultation on Taxi and Private Hire Vehicle Licensing, Best Practice Guidance for Licensing Authorities in England. This document confirms best practice in relation to several taxi licensing related issues. This consultation is now closed.
- 20 The Council's current taxi policy is not in accordance with current national standards, or this proposed guidance. The revised version of the taxi policy agreed by GLRC would bring our current taxi policy in accordance with the national standards. Subject to the outcome of the Government consultation the revised taxi policy may not meet any revised guidance issued by the Department for Transport (DoT) and this may prompt a further policy review.
- 21 Initially the decision was taken to wait until the new best practice guidance was formalised by the DoT after the end of the national consultation that ended in June 2022. The DoT was contacted to ask for its opinion on this matter and the response was that we should press ahead with this policy review in order that national standards can be brought in as soon as possible.

Second consultation exercise

- 22 The second, 4-week consultation took place between Monday 20 June and Sunday 17 July 2022 and was carried out in accordance with guidance and information provided by DCC legal Services and DCC Partnership Team's Consultation and Engagement section.
- 23 The consultation exercise was widely advertised and published on the Council's website and via directed consultation methods agreed by the Council's Consultation Officer Group (COG). See Letter to Taxi Trade Appendix 3.
- 24 During the consultation period, all respondents were asked to send their comments to the email address: licensing@durham.gov.uk

- 25 At the end of the consultation period, a total of 53 responses had been received in total which included 5 separate responses from 1 respondent.
- 26 The email responses received together with comments from Licensing Services are shown in Appendix 4.
- 27 Matters that were not of a policy nature or which concerned subjects outside the remit of Council policy have not been taken forward for further consideration.
- 28 Some of the proposals in the revised policy are intended to bring our current taxi policy in line with current national standards and have not been challenged during consultation.
- 29 Many of the points raised by respondents however have highlighted concerns around the proposals on vehicle emissions.
- 30 There was a general acceptance that vehicles licensed for the very first time by DCC should meet Euro 6 emission standards. The respondents from the taxi trade were against the original proposals for the dates associated with vehicle licence renewals involving older Euro 4 and 5 vehicles.
- 31 In the main, concerns were associated with the costs of vehicle replacement within the previously proposed timescales. In response to the representations received, a range of options were presented for further consideration by GLRC to address these concerns.

Material Considerations

- 32 The version of the taxi policy previously agreed by GLRC in 2021 had recommended the implementation of proposals relating to the Euro 4 and Euro 5 emission standards. These concerned the licensing of such vehicle renewals after 1 January 2023 and 1 January 2024 respectively. Given the consultation responses, GLRC Members may wished to extend these timescales to 2024 for Euro 4 and 2025 for Euro 5 vehicles.
- 33 In addition to the economic difficulties voiced by the trade and others, the effect of the removal or phasing out of older vehicles would catch wheelchair accessible vehicles (WAVs) under the previous proposals and the collective opinion was that WAVs should not be subject to emission control conditions.
- 34 A related counter proposal suggested by taxi trade respondents involved the retrofitting of pollution or emission control equipment to the licensed vehicles that were not manufactured to Euro 6 standards. The

efficacy and practicalities associated with such a proposal are subjects that extend beyond the knowledge and experience of Licensing Officers. Therefore, expert opinion from outside the service had been sought from the Energy Savings Trust (EST) on these propositions made by taxi trade respondents.

- 35 The advice from the EST was that they did not believe the fitting hydrogen on demand systems to Euro 4 and 5 cars reduced emissions or improved fuel efficiency and that in the last 15 years they had not seen any independent test report that demonstrated the claims made by the suppliers of such systems. It was considered by the EST that it would be quarter of a million wasted fitting these systems.
- 36 As a result of the information provided by the EST, there was insufficient evidence to support including retrofitting of emission control equipment to taxis as an effective means of providing a contribution to the overall reduction of pollution levels from vehicles in County Durham. The contribution of such methods towards climate change reduction was also in question.
- 37 The GLRC decided to accept the following option for inclusion in the taxi policy:
- (i) **New Applications (Newly Licensed Vehicles)** - New applications for all vehicle licences will only be accepted for vehicles manufactured to the emissions standard “EURO 6” or higher;
 - (ii) **Renewal Applications (Existing Vehicles / Continued Licensing):**
 - after 1 January 2024, we will not accept renewal applications for licensed vehicles* manufactured to the emissions standard Euro 4 or lower;
 - after 1 January 2025, we will not accept renewal applications for licensed vehicles* manufactured to the emissions standard Euro 5 or lower;
 - *Renewal applications for wheelchair accessible vehicles will not be subject to the above vehicle emission requirements.
- 38 GLRC also reconsidered the situation regarding the carrying of fire extinguishers and first aid kits in licensed vehicles. In view of the lack of support for such requirements by the Fire and Rescue Service and because such requirements, if imposed, may bring with them the responsibilities and costs for extinguisher and first-aid training to be

borne by the Council, GLRC agreed to make these matters optional rather than mandatory.

Main implications

39. A failure to review, revise and update the Council's taxi licensing policy would result in the Council's inability to properly administer, manage, and regulate the taxi licensing process. It would result in a failure to adopt the national standards aimed at protecting children and vulnerable persons. This would lead to unacceptable deficiencies in safeguarding and would expose the public to serious risks. Public safety would be compromised. The Council would be open to charges of maladministration and to legal challenges.

Conclusion

40. Further consultation on the policy has taken place in accordance with the wishes of the Council and GLRC has agreed to a couple of further modifications as a result.
41. The revised taxi policy has been subject to an initial Equality Impact Screening Assessment which has taken into consideration the current taxi policy and proposed revisions to the policy as agreed by GLRC. No overall impacts have been identified across the equality strands.
42. The recommendations made by GLRC in relation to revisions to the taxi policy will, if agreed and adopted by Council, enable the updated, revised policy to come into operation in on 1 January 2023.

Background papers

- Durham County Council's existing Hackney Carriage and Private Hire Licensing Policy 2016 (as amended in 2018)
<https://www.durham.gov.uk/media/5945/Hackney-Carriage-and-Private-Hire-Licensing-Policy/pdf/HackneyCarriagePrivateHireLicensingPolicy.pdf?m=636634554282130000>
- Report to GLRC 13 September 2021 – 'Review of the Council's Hackney Carriage and Private Hire Licensing Policy' and Appendices 1-11
<https://democracy.durham.gov.uk/documents/s143998/Revision%20of%20Taxi%20Licensing%20Policy%20Report.pdf>
- Report to GLRC 17 November 2022 - Review of the Council's Hackney Carriage and Private Hire Licensing Policy' and Appendices Agenda for General Licensing and Registration

Committee on Thursday 17 November 2022, 1.30 pm
(durham.gov.uk) [Agenda for General Licensing and Registration Committee on Thursday 17 November 2022, 1.30 pm \(durham.gov.uk\)](#)

- Policy review considerations
<https://democracy.durham.gov.uk/documents/s144410/Policy%20Review%20Considerations.pdf>
- Taxi Policy Briefing Note
<https://democracy.durham.gov.uk/documents/s149020/App%205c%20-%20Taxi%20Policy%20Briefing%20Note%20Consultation.pdf>

Other useful documents

- Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (2010)
<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>
- Department of Transport Statutory Taxi & Private Hire Vehicle Standards July 2020
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf
- Vehicle Emissions and Age Restrictions Policy Options
<https://democracy.durham.gov.uk/documents/s149024/App%207%20-%20Vehicle%20Emissions%20and%20Age%20Policy%20Options%20Appraisal.pdf>

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Appendix 1: Implications

Legal

The Hackney Carriage and Private Hire Licensing Policy has been produced in accordance with the powers conferred by the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985, as amended, which places on the Council the duty to carry out its licensing functions in respect of hackney carriage and private hire licensing and also in accordance with relevant government guidance.

Finance

None.

Consultation

Two full public consultation processes have been undertaken in respect of the review of this policy.

Equality and Diversity / Public Sector Equality Duty

The existing Hackney Carriage and Private Hire Licensing Policy has gone through a full Equality and Diversity Impact Assessment. The revised taxi policy has also been subject to a screening assessment prior to reporting to Committee and is attached in Appendix 4.

Climate Change

Revising the policy on Vehicle Emissions and Manufacture Criteria for licensed vehicles will help to ensure that vehicles licensed by DCC will meet current or recent emission standards, thereby contributing to climate protection and local air quality management.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

A failure to review, revise and update the Council's taxi licensing policy would result in the continuation of the existing out-of-date policy with no replacement. This would result in the Council's failure to adopt new national standards for taxi licensing and the inability to properly administer, manage and regulate the taxi licensing process. This would result in unacceptable deficiencies in safeguarding and would expose the public to serious risks. Public safety would be compromised. The Council would be open to charges of maladministration and to legal challenges.

Possible challenges to any legal actions taken under taxi legislation resulting from actions taken in accordance with the policy; and possible legal action that could be taken against the policy itself, such as a judicial review of the new policy.

The final revised policy once adopted may be subject to challenge and complaint.

Procurement

None.

**Appendix 2: Revised Hackney Carriage and Private Hire
Licensing Policy recommended by GLRC post 17 November 2022**

Attached as separate document.

Appendix 3: Consultation Letter to the Trade

Attached as separate document.

Appendix 4: The email responses received together with comments from Licensing Services

Attached as separate document.

Appendix 5: Equality Impact Screening Assessment

Attached as separate document.