

LICENSING COMMITTEE

Taxi & Private Hire – Fitness & Suitability of Applicants and Licence Holders Policy

Report of Executive Member for Neighbourhoods

Officer contact: John Garforth – Trading Standards & Licensing Manager

1st November 2022

Executive Summary

This report requests that Members approve a revised policy on the fitness and suitability of applicants and licence holders in relation to private hire and taxis.

Recommendations

That Members:

- 1) Note the report; and
 - 2) Approve the policy
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1. Purpose of the report

- 1.1 The purpose of this report is to request that Members approve a revised policy covering the fitness and suitability of applicants and licence holders

2. Introduction

- 2.1 The licensing of the taxi and private hire industry is a very important regulatory function of the Council, primarily as it concerns public confidence in who the Council, in its capacity as Licensing Authority, issues licences to. Whether or a not a licence is issued is a matter delegated to both Officers and Elected Members of the Licensing Committee and its sub panels. Decisions on whether a person is 'fit and proper' includes the safety of passengers travelling in vehicles in matters surrounding the vehicle, its driver and, for private hire bookings, the operator.

- 2.2 With the safety of the public being our paramount concern as part of our regulatory function it is important that clear direction is given to decision makers relating to their roles. It is required by s.177(4) of the Policing and Crime Act 2017 that the Council has regard to statutory Taxi and Private Hire Vehicle Standards issued by the Department for Transport in July 2020.

- 2.3 A person's character, behaviour and history of criminal activity are of particular importance when judging their suitability to hold a licence. This Policy outlines the Council's criteria in relation to the 'fit and proper' test contained within the legislation.

- 2.3 When considering whether an applicant or licence holder is a 'fit and proper' person to hold a licence it may be helpful to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities the answer to the question is 'no', the individual should not hold a licence.

- 2.4 All decisions on the suitability of an applicant or licence holder should be made on the balance of probability. This means that an applicant or licence holder should not be given the benefit of the doubt and if the decision maker is only 50/50 as to whether the applicant or licence holder is 'fit and proper' they should not permit the applicant or licence-holder to hold a licence. The threshold used is lower than for a criminal conviction (that being beyond reasonable doubt) and can therefore include information that goes beyond criminal convictions.

- 2.5 Licence holders are in a unique position of trust and are often in one to one contact with children, young persons and vulnerable adults. They often have custody of property belonging to others or have knowledge which might facilitate crime. The Council is committed to ensuring insofar as is possible that:

- All persons that hold a licence are 'fit and proper persons' or in simpler terms they are both 'safe and suitable'
- The public are not exposed to persons with a history of dishonesty, indecency or violence or any other offence or inappropriate behaviour which may question the person's 'fit and proper' status
- The safety of children, young persons and vulnerable adults is protected.

3. **Proposed Policy**

3.1 Upon reviewing the previous policy Officers have referred to a wide range of publications including the following:

- Institute of Licensing Guidance on determining the suitability of applicants and licence holders (produced in partnership with the LGA, NALEO and LLG) (2018)
- Department for Transport Statutory Guidance on Safeguarding (2020)
- Department for Transport Best Practice Guidance (2010)
- Review into historic safeguarding practices in the Borough of Oldham (2022)
- Reports into the Independent Enquiry into Child Sexual Exploitation in Rotherham (2014 and 2015)

3.2 The final policy presented today for approval seeks to address a modern day framework having considered best practice, legislation and reviews. It sets out the obligations upon which decision makers in Oldham should have regard when making important decisions and having regard to public safety.

4 **Consultation**

4.1 A wide range of stakeholders both inside and outside of the Council were consulted as part of the preparation of this final policy. This included the following:

- Private Hire and Taxi trade representatives
- Greater Manchester Police
- Adults Safeguarding Partnership
- Children's Safeguarding Partnership
- Community Safety

- 4.2 One formal consultation response was received from the Oldham Hackney Drivers Association through its Chairman, Mr Abdul Khayal. In his submission, which can be found at Appendix 1, Mr Khayal sets out his thoughts on the proposals on behalf of his members.
- 4.3 Officers thank Mr Khayal for his response and have noted his feedback. It should be noted that the absence of comment in relation to driver safety in the proposed policy is no reflection on the trade concerns, it is merely that this policy is about how the Council licences. There are other forums to discuss driver safety and where such conversations have taken place recently. No policy amendments are being proposed following this submission.

5 **Legal Services Comments**

- 5.1 Under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of private hire vehicle drivers, section 59 of the Act in respect of hackney carriage vehicle drivers and section 55 of the Act in respect of private hire operators, the Council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold the licence. The proposed policy complies with the statutory Taxi and Private Hire Vehicle Standards issued by the Department for Transport in July 2020 under section 177 of the Policing and Crime Act 2017. (A Evans)

6 **Co-operative Agenda**

- 6.1 Not applicable

7 **Environmental and Health & Safety Implications**

- 7.1 None

8 **Equality, community cohesion and crime implications**

- 8.1 None

9 **Equality Impact Assessment Completed?**

- 9.1 No

10 **Key Decision - No**

11 **Key Decision Reference - N/A**

12. **Background Papers**

- 12.1 Consultation document

13.0 **Appendices**

Appendix 1 - Consultation response from Oldham Hackney Carriage Association

Appendix 2 - Proposed Policy

Appendix 1

Submission by Mr Abdul Khayal – Oldham Hackney Carriage Owners Association

Fitness and suitability of Taxi and private hire policy(consultation)

Licensing institutions issued this documents in 2018 and local government association approved in 2020 but no dates when Oldham councils passed or adopted this policy documents.

Now licensing officials asked trades members to raised the opinions or expressed their concerns.

First of all councils says that their paramount interest is public safety unfortunately not a single words uttered for taxi drivers safety or their welfare .

When statistics says that over 100 taxi driver killed by customers , looted and beaten in thousands .

How you justify this situation?

We have similar bloods in our veins and run in same direction as our customers.

Drivers responsibility to take them to their destination safely and look after the vulnerable or disabled customers with maximum comfort.

Majority drivers want to earn their livelihood with honesty and with respect end of the journey charged or asked said amounts which showed on the meters .

Sexual harassment or other illegal activities are not allowed and licensing will take action accordingly .

Safety of drivers must be written and protected by police all the time during their working hours drivers are more vulnerable when they with young drunken customers .

If they call for help that should be provided at the time of needs not after 24 hours after the event or trouble.

Fitness and suitability tests

Should applied only to the new comers and existing drivers should be dealt with their past or present records .

The term - Fine no objection as long fairly applied

Is European convention exist at present ? If exist it's applied too?

Councils Responsibility & commitments

Before issuing badge to applicants council and licensing officials make sure that person is trustworthy and characterised is fine with reasonable previous convictions and he meet the criteria which lay down in councils policy documents, balance of probabilities 50/50%. License holders is in position of trust and not crime facilitator.

Power to issue a licence,

Delegated power must be used in similar ways as used in balance of probabilities 50/50% it's should be determined by guidelines in the policy documents.

Section 57 Act 1976 - Applicants must information in first hand which needed to help the process to obtain the badge

The councils Scheme of Delegation - Councils this information fully available on line when applicants applied for his badge

Officers and committee hearing procedure - Procedures should be standardised with out any ambiguity or miss interpretation and referred to independent panel if needs be otherwise dealing through lay down procedures. If a person seek advice then independent legal advice should be provided with his representatives or advocate.

Outcome in writing to applicants and kept the same records on official files too.

Members of public - Not excluded he should be allowed to help the applicants if he need be

Fit and proper standard - As a trades members we accept 4.1 and 4.2 but he asked this information should be provided in applicants mother language as well.

4.3 it's in normal procedures that applicants declare all his previous convictions but as trades we are not agreed with this statement if convictions finished by law or over a long period of time to declare these convictions put extra pardon on applicants this should be omitted if any one or two years old then bring on board for consideration.

Page7 - On this page same information repeated from the previous pages little extra Act 1976

Section 51,55,59, miscellaneous and section 61 and 62 all need proper solicitor to explained in depth if needs be

Page 8 - These informations may be come in force during complaints procedures no further comments

Page 9 - Vulnerable , disable , children or sexual exploitation (CSE)

It's sole responsibility of drivers not to abuse the system he should work with in parameters of trust , honesty at all time. If persons needs helps drivers should provide it with no extra cast

Page 10 - Similar procedures applied drivers should understand the principles of abuse which are listed in page 10

Previous spent convictions,

Rehabilitation Act 1974 order 2002 caused major problems to our trades that taxi drivers all spent conversation are alive at all time this needs to look again and change through Parliament some time drivers didn't remember to put on his records

We as trade know local council had power to over ruled or ignored such spent convictions and helps industry to get ride of short fall of taxi driver and reduced unemployment as well because this industry had great potential if promoted correctly.

1. fixed penalties not agreed but can be given written warning after careful consideration
2. Not agreed if longest period applied that should be minimum of 2/4 weeks not longer then that
3. Agreed with A&B actions not with C&D Actions and retraining fine .Decision should be taken as lay down by councils procedures benefits of doubt should be warded to drivers , licensing officials or committee members can contact as they wished DBS services must be improved if any mishandling or delay the badge holders continuously in work not suspended as done previously
1. Renewal of license ,
2. Reasonable grace period should be allowed as licensing authority knows this industry predominantly becomes immigrants workers (Taxi drivers) deaths in the families or any body died overseas naturally it will take time to over come this situation look the circumstances before considering its consequences .Deliberately using expire badge not allowed In this matter licensing used appropriate action
3. Reapplication after revoke or refused period should be reduced from 12 months to 3 months if any serious cases licensing can applied their rules accordingly.
4. Human rights this is already in place fine page 12&13
5. Schedules A to F. No comments page 14&15
6. Offences of violence- Schedule B ,D , E and F no comments because these are descriptions of offences nature can't be changed. Page 16,17,18,19,20,21,22,23
7. Serious motoring offences : no need any further explanation they are illustrated adequately page 24,25
8. Mutual Recognition offences: self explanatory page 26
9. Owners Hackney ; similar principles applied as Taxi drivers which slightly unfair page 27
10. Supplementary Guidance if a taxi drivers or owners of vehicles face this situation seeks good advice from experience persons or good solicitor better take solicitor on board page 28,29,30 and 31
11. Endorsement Codes and penalty points: this need very carefully handled by yourself or solicitor thanks Page 32 and 33. John if you have any comments please let me know it took me bit to read it digest it then replied points by points page by page . I hope these lengthy documents not come in future if do come in short forms

A R Khayal chair

Board members nphta

4th August 2022