

REPORT: Regulatory Committee

DATE: 6th October 2021

REPORTING OFFICER: Strategic Director Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: Taxi Licensing Matter

WARDS: Borough-wide

1. PURPOSE OF REPORT

To progress the recommendations made by the Department for Transport (DFT) in their document “Statutory Taxi & Private Hire Vehicle Standards”.

2. RECOMMENDATION

It is recommended that the following amendments to the current taxi licensing policy put forward in this report be considered and adopted. These amendments are as follows:-

- **To require checks of all new applicants against a central database prior to being licensed as well as updating a National Register with details of licence refusals and revocations**
- **A requirement for all licensed drivers to be registered with the Disclosure & Barring Service (DBS) update service so that more frequent checks can be conducted**
- **An amendment to the vehicle licensing policy requiring the display of a customer feedback notice in vehicles**

3. INTRODUCTION AND BACKGROUND INFORMATION

3.1 The Department for Transport (DfT) published its Statutory Guidance on ‘Statutory Taxi and Private Hire Vehicle Standards’ in July 2020.

3.2 The Statutory Guidance has been issued to all Licensing Authorities to enhance the safeguarding measures the taxi and private hire vehicle licensing regime requires, and to protect the most vulnerable in communities.

- 3.3 Whilst the primary focus of the Statutory Guidance is on protecting children and vulnerable adults, all passengers are said to benefit from the recommendations contained within it. There is consensus that national minimum standards are required to make the regulation of the taxi and private hire vehicle sector better, and the recommendations in the document are the result of detailed discussion with the trade, regulators and safety campaign groups. As this is Statutory Guidance, the recommendations must be implemented unless there is a compelling local reason not to.
- 3.4 On 2nd September 2020 this Committee received a copy of this document and were notified that its contents and implications would be thoroughly examined by Officers of the Council and referred back to this Committee for consideration. A copy of the DFT's "Statutory Taxi and Private Hire Vehicle Standards" are attached to this report as Appendix A.
- 3.5 One section of the DFT's requirements is to implement a new professional standards policy relating to convictions and a subsequent proposal was put before Members in June of this year which has since been adopted by this Council.
- 3.6 Three further matters from the DfT's standards have been considered by Officers and changes to the Council's current policy is now submitted for consideration by this Committee. The details of which are referred to in Section 4 of this report.
- 3.7 The Committee is responsible for determining the Council's policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire.
- 3.8 However, the Constitution must now be interpreted in accordance with the case of R (On the application of 007 Stratford Taxis Limited v Stratford on Avon District Council 2011. This Court of Appeal decision interpreted the meaning of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in respect of matters which must be dealt with by a Council's Executive or by a committee of its council. Essentially, the court held that: (1) it was clear that individual applications relating to taxi matters must be dealt with by the equivalent of this Council's Regulatory Committee and (2) matters calculated to facilitate, or be conducive or incidental to such applications must also be dealt with in the same way but (3) any "plan or strategy" associated with such a function would be an executive function and therefore have to be determined by a council's executive. The Stratford case concerned the introduction of a wheelchair access policy. The decision was taken by the

Council's cabinet rather than its Licensing Committee. The challenge from the taxi trade was that the Licensing Committee should have adopted the policy. This element of the challenge was rejected by the court.

3.9 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.

3.10 In deciding whether to recommend the adoption of a policy the following questions should be addressed:

3.10.1 Has proper consultation been undertaken?

3.10.2 Are the proposals necessary and proportionate?

4. SUPPORTING INFORMATION

4.1 As stated above, there are three matters that need to be considered. The first matter is the requirement for all applicants to be checked against a National database prior to issuing a licence. This proposal would also mean that any applicants who have a licence refused or revoked will be recorded on this register. Further details can be found on the National Register of Taxi Licence Revocation and Refusals (NR3) Policy Document which is at Appendix B of this report.

4.2 The second matter is a requirement for all applicants to register with the DBS Update Service. This would allow for checks against a person's criminal record to be carried out more frequently than every 3 years which is the case at present and provides clear instruction on how this would work. This proposal can be found at Appendix C of this report.

4.3 The 3rd and final matter is the requirement for notices to be fitted in licensed hackney carriage and private hire vehicles clearly advising the public on how they can provide feedback to the Council about the driver, operator or vehicle they are travelling in. The details of this proposed policy change can be found at Appendix D of this report.

5. CONSULTATION

5.1 As part of the consultation the local trade were contacted on 16th August 2021 by email for any comments on the 3 matters referred to in this report. Details of the consultation were also posted on the Council's website with a closing date for comments or opinions to be made by 30th August 2021.

5.2 The following replies were submitted to the licensing team as part of the consultation process. Each person submitting their views has had their identities removed but has been referred to with a number for audit purposes only. No comment has been amended, corrected or rephrased.

5.2.1 Number 1

Reply to all 3 matters

I would like to agree to all the changes put forward

5.2.2 Number 2

I agree with the NR3 database as it will make the service safer for our passengers

I'm satisfied with the way that the DBS checks are run as they are now

As far as I am aware all vehicles have the complaint policy on show. I don't see the need for more signage

5.2.3 Number 3

I agree with all 4 of changes being discussed but especially the one about driver/assistants having their DBS registered, my reason for this is because you can ask for the codes from the driver in order to see the document without further costs. Plus it would be so much quicker to obtain vital information to get the required badges.

* Please note that the 4th change referred to by this respondent is for a non-statutory consultation relating to hackney carriage vehicle tariffs which is not for consideration by Members at present.

5.2.4 Number 4

NR3 Central Database Service

Totally agree with this proposal I feel that if you haven't got anything to hide then this proposal won't be a problem to you

DBS Update Service

Totally agree the previous system only tells the council that on a the date of issue you are a fit and proper person to be licensed the day after could be a different story

Complaints Issue

Totally disagree, If anyone has a issue with a taxi driver everybody with the ability to get into a taxi knows beforehand to get in touch with the Council who licensed the driver. This proposal will increase the amount of frivolous complaints and the additional signage will tell a passenger to complain about a driver because they can !

5.2.5 Number 5

Also with regards to the NR3, DBS Update, and complaints contact notice, a yea on all three likewise.

Only reservation I have is, I'm currently registered with the DBS subscription and am unsure as to whether or not I'll be notified with regard to the expiration of my debit card, for auto renewal, I'm also still unsure as to whether they propose to implicate a direct debit method of payment which I think will be much more satisfactory.

5.3 Members of the Regulatory Committee may add any weight to the above comments as they see reasonable.

6. REGULATORS' CODE 2014

6.1 The Regulators' Code 2014 requires regulators (such as the Council) to take into account a number of factors when introducing new policies.

6.2 For example, paragraph 1.2 of the Code states: "When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimise the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance."

6.3 The Code also states that regulators should base their regulatory activities on risk. In the present case the balancing exercise is to weigh any negative consequences on the taxi trade against the positive consequences on the public who use the services of the trade.

6.4 It is taken as read that unnecessary burdens should never be imposed and that all actions need to be proportionate.

7. OPTIONS

7.1 The options available to the committee are to **recommend:**

- Agreement to some or all of the potential changes or
- Amendment to some or all of the potential changes or
- Rejection of the potential changes.

7.2 Should the Committee recommend the second option to amend any of the potential changes to the policy and/or licensing condition then they will need to be altered. The Committee would therefore be requested to include within the resolution a delegation of the task of preparing detailed wording and other consequential matters to the Licensing Manager.

8. POLICY IMPLICATIONS

8.1 Any changes made would change elements of existing policy relating to applicants applying to hold a hackney carriage and private hire driver's licence (referred to as a Single Status Driver's Licence) as well as both hackney carriage and private hire vehicle licences issued by Halton Borough Council.

9. OTHER IMPLICATIONS

None

10. IMPLICATIONS FOR THE COUNCILS PRIORITIES

10.1 **Children and Young People in Halton**
None

10.2 **Employment Learning and Skills in Halton**
N/A

10.3 **A Healthy Halton**
N/A

10.4 **A Safer Halton**
None

10.5 **Halton's Urban Renewal**
N/A

11. RISK ANALYSIS

There are no associated risks which have been identified with this item.

12. EQUALITY AND DIVERSITY ISSUES

There are no equality or diversity issues related to a review

13. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

| Document | Place of Inspection | Contact Officer |
|---------------------------|----------------------------|------------------------|
| 1. Taxi Consultation File | Licensing Section | Nick Wheeler |