

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 6 NOVEMBER 2019

Title of report	REVIEW OF LICENSING POLICY AND CONDITIONS RELATING TO PRIVATE HIRE OPERATORS
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Purpose of report	To present a draft hackney carriage and private hire driver policy and private hire operator conditions, for approval.
Council Priorities	Business & Jobs Homes and communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Assessment</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>All staffing costs associated with the preparation, consultation, adoption and enforcement of the Hackney Carriage and Private Hire Fit and Proper Person Policy and Private Hire Operator Licence Conditions can be met by the existing level of staff.</p> <p>Not applicable.</p> <p>No significant risks identified. All proposed conditions relate to the promotion of public, driver or passenger safety.</p> <p>Not applicable.</p> <p>Any interference with property rights protected by Article 8 and Protocol 1 Article 1 of the Human Rights Act must be legitimate, necessary and proportionate.</p> <p>None.</p>

Comments of Chief Executive	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Licensing Committee District Councillors - NWLDC Existing private hire operator licence holders Public/Customers National Private Hire Association Leicestershire Police
Background papers	NWLDC Hackney Carriage and Private Hire Driver Fit & Proper Person Policy – Issue 16 NWLDC Private Hire Operator Conditions Institute of Licensing. Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades. 26.04.18
Recommendations	<p>1. THAT LICENSING COMMITTEE CONSIDERS AND APPROVES THE DRAFT PRIVATE HIRE OPERATOR LICENCE CONDITIONS (APPENDIX 1)</p> <p>2. THAT LICENSING COMMITTEE CONSIDERS AND APPROVES THE DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FIT AND PROPER POLICY (APPENDIX 2)</p> <p>3. THAT AUTHORITY TO MAKE AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AND PRIVATE HIRE OPERATOR LICENCE CONDITIONS TO REFLECT CHANGES IN LEGISLATION AND CENTRAL GOVERNMENT POLICY AND GUIDANCE IS DELEGATED TO THE ENVIRONMENTAL HEALTH TEAM MANAGER</p>

1.0 Background

- 1.1 A private hire operator (PHO) is the person who takes a booking for a private hire vehicle (PHV), and then dispatches a PHV driven by a licensed private hire driver (PHD) to fulfil that booking. All three licences (PHO, PHV and PHD) must be granted by the same licensing authority. A licensing authority cannot grant a PHO unless the applicant has the right to work in the UK and is a fit and proper person.

- 1.2 The role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is a trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but licensing authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls of vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 1.3 To be consistent and ensure that informed decisions are made, it is important to have a working test of fitness and propriety for PHOs. The following test is applied:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”
- 1.4 The current private hire operator conditions were approved by Licensing Committee in 2010. Any amendment to these conditions must be approved by the Licensing Committee.
- 1.5 The current fit and proper person policy was approved by Licensing Committee in February 2017 and amended to reflect legislative change in 2018 and 2019. Any amendment to this policy other than those made to reflect changes in legislation or Government policy must be approved by the Licensing Committee.
- 1.6 In 2018 the Institute of Licensing published guidance on determining the suitability of applicants and licensees in the hackney and private hire trades. The current fit and proper person policy and conditions have been reviewed in response to the publication of this document.

2.0 Consultation

- 2.1 A consultation period commenced on 5 July 2019 and ended on 26 September 2019. The following individuals and groups were consulted:
- All current private hire operator licence holders;
 - Leicestershire police;
 - Licensing Committee
 - Public and passengers were also consulted by placing the consultation documents on the Council’s web site.
- 2.2 A total of 5 responses were received.

3.0 Summary of consultee feedback

Responses have been filtered by licence holders and other interested persons

- 3.1 Conditions relating to standards of service

The draft licence conditions relating to service standards have been amended and added to. The most significant changes are:

- New requirement for operators to undertake sufficient checks to satisfy themselves that only suitable staff are used to operate telephones and radios (and continue to be used) in the course of their business. (condition 1.10)
- New requirement for operators to notify the council of any changes in partnership, directorship, ownership where the operator is a limited company. All directors and partners to undergo fit and proper assessment. (condition 1.11)
- New requirement for the person in control to notify the council if they are going to be absent from the business for 1 month or more. (condition 1.13)

	Licence holder	Other interested persons	Total
Supportive	4	1	5
Not supportive	0	0	0

The proposed changes received full support from consultees.

No amendments were made to the proposed changes.

3.2 Conditions relating to records of bookings

The draft conditions relating to the recording of bookings have been amended and added to. The most significant changes are:

- Loose leaf registers no longer acceptable (condition 2.1)
- Changes have been made to the use of electronic booking systems (condition 2.2)
- The retention period for records has increased from 6 months to 1 year (condition 2.3)
- Small changes have been made to the content of the records (conditions 2.4, 2.5, 2.6)
- A requirement relating to accepting bookings involving assistance dogs to reflect the law (condition 2.10)
- A requirement to handle and store sensitive information appropriately (condition 2.11)

	Licence holder	Other interested persons	Total
Supportive	3	1	4
Not supportive	1	0	1

Comment: Would prefer to keep loose sheet (condition 2.1)

The proposed changes were supported in the main.

No amendments were made to the proposed changes.

3.3 Conditions relating to change of base / address

Changes have been made to the draft conditions relating to a change of an operator base
They include:

- o Addition of a condition stating that normally operator bases based at a residential domestic property is restricted to two vehicles, unless planning permission is first obtained. (condition 4.2)

	Licence holder	Other interested persons	Total
Supportive	4	0	4
Not supportive	1	0	1

No comments received

The proposed changes were support in the main.

No amendments were made to the proposed changes.

3.4 Conditions relating to the disclosure of arrests, cautions or convictions / criminal record checks

Changes have been made to the draft conditions relating to disclosure of arrests, cautions or convictions and criminal record checks. Changes include:

- o Time period by which the council must be notified of sexual and violent related convictions etc. changed from 7 days to 24 hours (condition 5.1)
- o Requirement for private hire operator licence holders who are also drivers to subscribe to the DBS online update service (condition 5.2)
- o Requirement for PHV operators to evidence that they have had sight of a basic DBS check on all individuals that take bookings or dispatch vehicles (condition 5.4)
- o Requirement for PHV operators to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles (condition 5.5)

	Licence holder	Other interested persons	Total
Supportive	5	0	5
Not supportive	0	0	0

The proposed changes received full support from consultees.

No amendments were made to the proposed changes.

3.5 Conditions relating to staff training

Changes have been made to the draft conditions relating to staff training. They include:

- o A requirement for operators to attend the operator training and pass a knowledge test at the end of the training. Content will include safeguarding and CSE as well as operator licence conditions. Training to be refreshed every 3 years (condition 6.6)

	Licence holder	Other interested persons	Total
Supportive	1	1	2

Not supportive	1	0	1
No opinion	2	0	2

Comments received:

No mention if the cost is to be met by the operator or service provider.

Drivers should continue to be the eyes and ears – operators must understand the requirement and enforce that through internal training.

Following comments received the amendments have been made to the proposed condition.

The initial proposal to require operators to attend training and pass a knowledge test every 3 years has been removed.

The following condition is proposed:

A requirement for private hire operators to attend a Child Sexual Exploitation training session (condition 6.6).

A requirement for private hire operators to ensure that all staff used on telephones and radios / taking bookings have been made aware of how to spot the signs of child sexual exploitation and the reporting process (condition 6.7).

3.6 Conditions relating to insurance amended

- A new requirement for an operator to hold public liability insurance and employers liability insurance has been added to the draft conditions (condition 7.3).

	Licence holder	Other interested persons	Total
Supportive	2	1	3
Not supportive	1	0	1
No opinion	1	0	1

No comments received.

The proposed changes were support in the main.

No amendments were made to the proposed changes.

3.7 Conditions relating to the display of the licence and conditions

- A condition requiring the display of a copy of the licence at the operators premises has been added to the draft conditions (condition 9.2)

	Licence holder	Other interested persons	Total
Supportive	2	1	3
Not supportive	1	0	1
No opinion	1	0	1

No comments received.

The proposed changes were support in the main.

No amendments were made to the proposed changes.

3.8 Conditions relating to vehicles

- A condition requiring an operator to take reasonable steps to ensure the parking or congregation of vehicles does not cause a nuisance has been added (condition 10.6).

	Licence holder	Other interested persons	Total
Supportive	2	1	3
Not supportive	1	0	1
No opinion	1	0	1

No comments received.

The proposed changes were support in the main.

No amendments were made to the proposed changes.

3.9 Conditions relating to the duration of private hire operator licence

- A condition stating that new (initial) licences will be granted for a period of 12 months only (condition 12.1) After the first year subject to satisfactory compliance with licence conditions a renewal would be granted for up to 5 years.

	Licence holder	Other interested persons	Total
Supportive	3	1	4
Not supportive	0	0	0
No opinion	1	0	1

Comments received:

This is great, builds trust with team / provides security to employee

The proposed changes received full support from consultees.

No amendments were made to the proposed changes.

3.10 Vetting Procedures of staff

- A policy requiring details of staff vetting procedures to be submitted with an application for a private hire operator licence has been added (paragraph 14.2 and 14.5).

	Licence holder	Other interested persons	Total
Supportive	0	1	1
Not supportive	2	0	2
No opinion	2	0	2

Comments received:

Goes too far. Employer already very restricted on types of questions to ask. Plus interviewees always on best behaviour at interview. Point?...that it's difficult to really know what a candidate is like until you get to know them. Leave background checking to DBS.

Following the consultation process the proposal to require details of staff vetting procedures to be submitted with an application for a private hire operator licence has been removed.

The amended proposal now reads:

Operators have overall responsibility for all persons that they employ, contract or use in the course of delivering their private hire operator's business. To that end, the Operator must undertake sufficient checks to satisfy themselves that only suitable drivers and other staff are used (and continue to be used) in the course of their business. The failure of an Operator to ensure that appropriate checks are carried out, may call into question the operator's fitness and propriety. In addition, a failure to take appropriate action in relation to telephonists employed (subject to complaints) and licensed drivers that breach licence conditions, licensing policy or who receive convictions may also be detrimental to the continued fitness and propriety of the operator.

All operators are required to have a documented vetting procedure for persons they employ or use in the delivery of their business. A vetting procedure shall cover any pre-employment checks and how the company responds to complaints or concerns received relating to any staff employed. (paragraph 14.5)

3.11 Training / Knowledge test

- o A policy requiring applicants / licence holders to undergo agreed private hire operator training and pass a knowledge test relating to licence conditions and safeguarding has been added (paragraph 14.4).

	Licence holder	Other interested persons	Total
Supportive	1	1	2
Not supportive	2	0	2
No opinion	1	0	1

Comments received:

Never really understood why the employee needs to know the ins and outs of what an operator should know. Already has enough compliance to contend with. Step too far.

Following consultee feedback the proposed policy relating to training has been amended. The amended policy reads:

All private hire operators are required to undertake agreed child sexual exploitation training. All new applicants will be required to undergo the training within 12 months of being licensed. All existing licence holders must undergo training within 12 months of the introduction of this policy (Date to be inserted).

Where an operator fails to attend appropriate training their licence will be suspended / revoked. Any subsequent application to renew their licence will be treated as an application for the grant of an operator's licence. In this instance the individual will be required to provide evidence that they have completed the required training before the application is determined.

All private hire operators must ensure that all staff employed to operate telephones and radios / taking bookings have been made aware of how to spot the signs of child sexual exploitation and the reporting process.

3.12 Duration of initial private hire operator licences

- A policy limiting the first grant of a private hire operator licence to 12 months to enable a review of the operation of the new business and its ability to comply has been added (paragraph 14.6).

	Licence holder	Other interested persons	Total
Supportive	3	1	4
Not supportive	0	0	0
No opinion	1	0	1

No comments received

The proposed changes were support in the main.

No amendments were made to the proposed changes.

3.13 Basic DBS Check – Vehicle Proprietors

- A policy requiring the submission of a basic DBS with all new vehicle licence applications unless the applicant is also a licensed driver or operator has been added.

	Licence holder	Other interested persons	Total
Supportive	5	0	5
Not supportive	0	0	0

No comments received

The proposed changes received full support from consultees.

No amendments were made to the proposed changes.

4.0 Future Amendments to Hackney Carriage & Private Hire Policy and Private Hire Operator Licence Conditions

- 4.1 The hackney carriage and private hire policy and private hire operator conditions will require further amendments from time to time to reflect changes arising directly from updates to legislation and central government policy, guidance and practice. In order to ensure any such changes in legislation and central government policy are effectively reflected in the policy in a timely manner it is proposed that such amendments are delegated to the Environmental Health Team Manager.

5.0 Next Steps

To publish the policy and communicate to current licence holders.

1 January 2020 – Commencement date of policy

The revised policy and conditions will apply to all current licences from 1 January 2020