

North Yorkshire Council

Executive

18 October 2022

North Yorkshire Hackney Carriage and Private Hire Licensing Policy

Report of the Chair of the Licensing Member Working Group

1.0 Purpose of Report

- 1.1 The Council's Hackney carriage and private hire licensing policy is an important document that demonstrates the Council's commitment to securing public safety, provides clarity for applicants and licence holders, assists decision making, facilitates enforcement activities and helps safeguard against legal challenge. The creation of North Yorkshire Council presents an opportunity to create a new policy that promotes the highest possible standards, whilst also providing a consistent approach for both the licensed trade and the public.
- 1.2 This report is to advise the Executive of the recommendations of the Licensing Member Working Group.

2.0 Background

- 2.1 The purpose of licensing hackney carriage (taxi) and private hire operations is to ensure that the travelling public are provided with a safe and accessible means of transport. Public safety should always be the primary consideration when making licence decisions concerning the licensing of drivers, vehicles, and operators. The Hackney Carriage and Private Hire licensing policy plays an integral part in both securing and demonstrating the Council's commitment to this important objective.
- 2.2 The creation of North Yorkshire Council will bring together seven separate licensing authorities, each formerly designated to administer the licensing arrangements in respect of hackney carriage and private hire operations. To support this licensing function, each former District adopted distinct policies, procedures, fee structures, conditions, and Byelaws.
- 2.3 A comprehensive review of the seven hackney carriage and private hire policies and conditions currently in place across North Yorkshire has been undertaken by officers from each district working collaboratively on LGR in respect of Licensing and a new policy has been drafted (**Appendix 1**). The Licensing Member Working Group considered the draft policy at its meeting of 7 October 2022 and is now seeking approval of the draft policy and to carry out a public consultation, with the aim of adoption by 1 April 2023.
- 2.4 Although the policies have many things in common, there are significant differences in terms of applicant criteria, vehicle specification, fees, fares, and procedure. The creation of the new North Yorkshire Council provides an opportunity to introduce a new revised policy which can be applied fairly and consistently across North Yorkshire with greater protection against legal challenge.
- 2.5 The introduction of a new policy will likely result in changes for both the providers and users of taxi and private hire services depending on the area within which they currently live and operate.

- 2.6 **Appendix 2** contains a prepared list of questions intended to be circulated as part of the public consultation. This document addresses the parts of the policy that officers believe will be the main areas of interest to the trade and public and explains the relevant justification for those requirements.
- 2.7 The draft policy:
- Supports the Council’s commitment to secure public safety
 - Is robust to withstand legal challenge
 - Contains unambiguous policy statements
 - Incorporates the highest standards from the various policies, updated where necessary to reflect the current best practices
 - Ensures that North Yorkshire Council has the best possible policy in place
 - Includes a set of supporting conditions
- 2.8 The consultation aims to highlight the key changes and seek views on them. All comments received will be fully considered prior to the policy being finalised, and the aim is to have a final draft of the policy for Executive approval early next year (2023).
- 2.9 A communications plan for the consultation has been created, given this is a live document it may be subject to change and is attached at **Appendix 3**.
- 2.10 A governance timeline for the draft hackney carriage and private hire licensing policy can be found in **Appendix 4**.
- 2.11 It is proposed that consultation responses will be reviewed on a bi-weekly basis. If during this process it is found that there are serious concerns over any matters raised about a particular aspect of the policy, officers will consider whether there is an impact upon the intended timeline.
- 2.12 After the consultation ends. Officers will review the consultation responses and suggest amendments to the policy were considered appropriate, and in line with the governance timeline.
- 3.0 Issues**
- 3.1 Each of the current district areas previously resolved to adopt Part II of the Local Government (Miscellaneous Provisions) Act 1976 and as such operated as controlled districts for the administration of hackney carriage and private hire functions. A new resolution, with the effect of deeming the North Yorkshire Council area as the controlled district, will remove barriers and allow the Council to operate one licensing regime across its whole area. This approach will support the adoption of a single hackney carriage and private hire licensing policy.
- 3.2 In accordance with the provisions of the Local Government (Structural Changes) (Transitional Arrangements) (No. 2) Regulations 2008 (SI 2008/2867) (“The 2008 Regulations”), the functions and systems of the former districts (including licensing arrangements) could continue to apply from the 1 April 2023. However, legal advice has confirmed officers’ initial concerns about the significant risks posed to the new Council if this approach was taken.
- 3.3 A risk assessment (attached at **Appendix 5**) has been undertaken to consider the issues associated with maintaining existing arrangements, including the seven hackney carriage zones throughout North Yorkshire. The risk assessment identifies the need to have the one unified hackney carriage and private hire policy in place for 1 April 2023. Hackney Carriage

fares and fees (private hire and hackney carriage) is mentioned in the risk assessment to show a true reflection of the risks; however, hackney carriage fares and fees will not be dealt with in this report. These are both separate matter with procedures associated with each and will addressed closer to the vesting date.

3.4 Officers believe that the risk assessment clearly demonstrates the need to have the one unified hackney carriage and private hire policy in place by 1 April 2023.

3.5 The advantages of the new North Yorkshire Council adopting Part II of the Local Government (Miscellaneous Provisions) Act 1976 are as follows:

- The DfT recommends the abolition of zones, chiefly for the benefit of the travelling public. Zoning tends to diminish supply and scope for customer choice and cause confusion and frustration with the public
- A single hackney zone aligns with the ethos of a unitary authority, promoting the rationalisation and streamlining of services and providing a coherent service for residents. A single zone also facilitates strategic decision making such as future provision of taxi ranks and vehicle specification.
- A single zone promotes a better service to residents and businesses, allowing the trade to respond flexibly to changes in demand across the whole Council area, for example at peak times. For the trade, there are efficiency savings and increased profitability through reducing the number of unoccupied journeys.
- A single zone only requires a single tariff of fares, simplifying the process for the trade and passengers, with efficiency savings for the Council.
- A single zone should improve the distribution of wheelchair accessible vehicles across the Council area.

3.6 The creation of a single zone will inevitably require a period of adjustment for the local trade. Evidence from other unitary authorities which have removed zones indicates that the negative impacts dissipate relatively quickly as the market forces take effect, ultimately providing a better service for the travelling public.

3.7 The single zone will also create the same level of fees across North Yorkshire. as stated in section 3.3 above fees will be addressed separate to this report.

3.8 Legal opinion has further confirmed that although the new North Yorkshire Council is not required to have a unified policy in place for the vesting date, indeed there is no statutory requirement to have a hackney carriage and private hire policy at all, it is recognised as best practice. Written policies demonstrate the Council's commitment to securing public safety, provide clarity for applicants and licence holders, assist decision making, facilitate enforcement and help safeguard against legal challenge.

3.9 It is clearly desirable that the new North Yorkshire Council moves to align policies and procedures in respect of taxi licensing matters. It is important that decision making is consistent, and drivers, vehicles and operators are held to the same standards across the Council and, as far as possible, they are subject to the same level of fee levels (to be addressed in a separate report).

4.0 The Work of the Group

4.1 The Working Group is chaired by Councillor Derek Bastiman and comprises of Members with significant licensing experience, supported by Officers from across North Yorkshire. The full Membership and officer/external support is attached to this report at **Appendix 9**.

4.2 The Group met on 7 October 2022 and considered the draft policy in detail, including the proposed timeline, consultation process and communications plan. This resulted in minor amendments to the draft policy wording to clarify vehicle testing frequency, and the questions to be asked during the consultation period. The Working Group did however endorse the draft policy, making a recommendation to the Executive that it proceed to consultation.

5.0 Policy Implications

5.1 The policy implications are outlined within the report.

6.0 Financial Implications

6.1 There are no financial implications to the Council.

7.0 Legal Implications

7.1 The legal implications are as identified in the report.

8.0 Impact on Other Services/Organisations

8.1 There is no impact on other services / organisations.

9.0 Risk Management Implications

9.1 Refer to **Appendix 5**, which highlights the risks of not having a harmonised policy. In summary the risks for maintaining the existing arrangements and implementing taxi zones throughout the Council are:

- i. Members working from multiple policies, training issues, increased workload, inconsistent and flawed decisions
- ii. 7 different hackney carriage zones under the one authority. Criticism for acting contract to the Department for Transport's ("DfT's) best practice guidance and leading to a diminished supply of hackney carriages and customer choice. Drivers dropping off in one zone will have to return to home authority before another pickup.
- iii. Risk of legal challenge over refusal of licences (driver, vehicle, and operator), some areas within the Council will have lower standards and the licence will have been granted.
- iv. Increased workload in areas in the Council that have less restrictive requirements for driver, vehicle, and operator licences.
- v. Caps on the number of wheelchair accessible vehicle would remain in place, which is contract to best practice and would result in a diminished supply of hackney carriage and customer choice, whilst also preventing new licence holders from entering the trade.

9.2 In summary the risk associated with abolishing hackney carriage zones and implementing a unified policy to the Council are:

- A. Changes for all areas of the Council, could lead to objections to the new provisions.
- B. Without intervention seven hackney carriage zones will automatically be created.
- C. The draft policy imposes no quantity restrictions on hackney carriage numbers, in line with the DfT's best practice, potential risk of legal (or other) challenge from existing aggrieved proprietors where restrictions currently exist, for losing their protected status and plate value.

9.3 For each risk summarised above, **Appendix 5** shows the appropriate mitigation.

10.0 Human Resources Implications

10.1 There are no Human Resources implications.

11.0 Equalities Implications

11.1 An Equality Impact Assessment has been carried out as part of this process. This can be seen in **Appendix 6**.

12.0 Environmental Impacts/Benefits

12.1 A Climate Change Impact assessment has been carried out as part of this process. This can be seen in **Appendix 7**.

13.0 Community Safety Implications

13.1 The policy is an important document that demonstrated the Council's commitment to securing public safety, provided clarity for applicants and licence holders, assisted decision making, facilitated enforcement activities, and helped safeguard against legal challenge. The creation of the North Yorkshire Council policy presents an opportunity to create a new policy that incorporated the new Department for Transport (DfT) statutory taxi and private hire vehicle standards as well as promoting the highest possible standards to secure public safety and protecting the vulnerable.

14.0 Reasons for Recommendations

14.1 Recommendation 1

The adoption of the Local Government (Miscellaneous Provisions) Act 1976 (other than section 45) ("the Act") is necessary to consolidate seven previous resolutions of the predecessor district councils, to create one 'controlled district' to reflect the administrative area of North Yorkshire Council, from the 1 April 2023. The consolidation supports the adoption of a single licensing policy and is necessary to remove the current boundaries, facilitating the licensed hackney carriage and private hire' ability to work freely across North Yorkshire Council's area, operating to the same standards, without the need for separate licences, resulting in efficiency and cost savings to passengers, the trade, and the council. The removal of hackney carriage zones will allow licensed taxis the freedom to stand and ply for hire across North Yorkshire Council's area. This approach reflects Department for Transport Best Practice Guidance, which advocates the removal of zones and allowing market forces to determine the level of supply as the most advantageous option for the public. A single zone approach also promotes efficiency, environmental objectives, and profitability with the potential for fewer empty journeys, wider distribution of wheelchair accessible vehicles and cost and efficiency savings for the council administering one zone, with one set of rules and tariff of fares.

14.2 Recommendation 2

Endorsement of the proposed hackney carriage and private hire licensing policy, as shown in **Appendix 1**.

14.3 Recommendation 3

Permission to consult is granted to carry out a 12-week public consultation on the proposed policy as shown in **Appendix 1**.

- 14.4 The Executive Committee is now requested to make the resolutions as per the recommendations. It is proposed that resolution 1 takes effect from 1 April 2023, when the new Council is formed, and the proposed Hackney Carriage and Private Hire Licensing Policy is expected to come into effect. The caveat on this decision is the adoption of the Act will only come into effect on the 1 April 2023, if the Hackney Carriage and Private Hire Licensing Policy is adopted for the vesting date of the new Council, following consultation.
- 14.4 That resolution 2 and 3 are with immediate effect. Section 3.3 of the report clarifies the need for the policy to be adopted by the vesting date and is supported by the corresponding risk assessment in **Appendix 5**. This shows the risks involved in not aligning the seven districts' policies from day 1, and not resolving to remove the current zones in place.

15.0 Recommendations

15.1 The Executive are recommended to:

- i. Pass a resolution on 18 October 2022 that the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 (other than section 45) shall be adopted within the administrative area of North Yorkshire Council, with effect from the 1 April 2023, with the caveat of the decision only taking effect if the Hackney Carriage and Private Hire Licensing Policy has been adopted for the 1 April 2023.
- ii. Endorse the proposed Hackney Carriage and Private Hire Licensing Policy as shown in **Appendix 1**.
- iii. To agree the commencement of a public consultation on the new North Yorkshire Council Hackney Carriage and Private Hire Licensing Policy.

Councillor Derek Bastiman
Chair of Licensing Member Working Group
County Hall, Northallerton
7 October 2022

Report Author & Presenter of Report - Sharon Cousins

Background Documents:

Local Government (Miscellaneous Provisions) Act 1976
Town Police Clauses Act 1847
Department for Transport Statutory Taxi & Private Hire Vehicle Standards
Taxi and private hire vehicle licensing: best practice

Appendices:

Appendix 1 – Proposed Hackney Carriage and Private Hire Licensing Policy 2023
Appendix 2 – Questions to the proposed Hackney Carriage and Private Hire Licensing Policy for consultation
Appendix 3 – Communications plan for consultation
Appendix 4 – Proposed timeline
Appendix 5 – Risk assessment
Appendix 6 – Equality Impact Assessment

- Appendix 7 – Climate Change impact assessment
- Appendix 8 – DPIA Screening Hackney Carriage Consultation
- Appendix 9 – Membership of Licensing Members Working Group