

North Yorkshire County Council

Executive

7 February 2023

North Yorkshire Hackney Carriage and Private Hire Licensing Policy 2023 and the Adoption of the Local Government (Miscellaneous Provisions) Act 1976

Report of the Corporate Director – Business and Environmental Services

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 seeks:
- a) adoption of the proposed Hackney Carriage and Private Hire Licensing Policy with or without further amendments, taking into consideration the responses to the consultation and the recommendations from the Licensing Members Working Group at its meeting of 24 January 2023;
 - b) approval to remove the existing licensing hackney carriage zones to create a new single zone for the North Yorkshire Council;
 - c) approval for a senior officer to make minor and inconsequential amendments to the policy (if adopted) to reflect legislative changes or correct any inaccuracies;
 - d) Approval to develop and maintain an Inclusive Service Plan (ISP) within 18 months of policy adoption.

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 As reported to the Executive Committee on 18 October 2022, the creation of the new North Yorkshire Council provides an opportunity to introduce a new policy to ensure the highest possible standards are applied fairly and consistently across North Yorkshire, whilst also providing greater protection against legal challenge.

2.4 The draft policy, attached as Appendix 1:

- 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

2.5 On 18 October 2022 the Executive Committee approved the draft Policy and a 12-week public consultation on the document and to propose the adoption of the Local Government (Miscellaneous Provisions) Act 1976 (other than section 45) for 1 April 2023.

3.0 LGR Transition Overview and Scrutiny Committee

3.1 On 14 December 2022 a meeting was held with the North Yorkshire Transition Overview and Scrutiny Committee, providing the committee with an overview of the proposed changes in the policy, and an update on the consultation so far.

4.0 Consultation, survey and responses

4.1 A consultation on the draft Policy took place between 28 October 2022 and 19 January 2023. Information on the consultation, including how to comment through the online survey was provided to key stakeholders including the taxi trade via email and letter. In addition, each local authority included the consultation on their respective websites and social media channels. Regular reminders were also sent to the taxi trade throughout the consultation period to raise awareness and encourage responses.

4.2 A total of 301 responses were received to the consultation from the following groups:

- 53% - Taxi or private hire driver
- 34% - Resident
- 6% - Private hire operator
- 2% - Other
- 2% - Business owner
- 1% - Councillor or MP
- 1% - Aspiring taxi or private hire driver
- 1% - Charity or community group
- 1% - Taxi trade organisation

The majority of responses were made by residents of Harrogate district (46%), followed by Scarborough (18%).

4.3 Full details of the comments received via the online survey is available at Appendix 2, with a visual summary provided at Appendix 3. Appendix 4 includes the consultation responses received outside of the online survey.

4.4 A summary of the key responses received together with Officer's comments is included at Appendix 5. Although general feedback to the consultation has been positive, two key issues have been identified concerning hackney carriages:

- Opposition to the proposal that the seven current geographical hackney zones should be removed and replaced with one single new hackney zone across the North Yorkshire Council area (Question 7); and,
- Opposition to the proposal to impose no quantity restrictions (Question 9).

Officers have responded in detail to both key issues within Appendix 5.

- 4.5 Appendix 4 includes responses from members of the public, and organisations such as the Accessible Transport Group, NYCC Integrated Passenger Transport, North Yorkshire Disability Forum and GMB. Also included is a letter which indicates it has been signed by 89 Harrogate Borough Council licensed drivers. The key points from these responses have also been included with Appendix 5 and responded to accordingly.
- 4.6 Officers met with the 'Accessible Transport Group' prior to the consultation commencing who submitted a number of comments. Although it is not proposed to require all vehicles to be wheelchair accessible, it is accepted that there is a need for more licensed wheelchair accessible vehicles across North Yorkshire. The creation of the one hackney carriage zone will enable a wider distribution of wheelchair accessible vehicles already licensed by legacy authorities but will not necessarily lead to an increase in the number of vehicles.
- 4.7 To demonstrate the Council's commitment to improving accessibility, Officers are proposing to develop and maintain an **Inclusive Service Plan (ISP)** within 18 months of the policy being adopted, ideally forming part of the Council's overarching Local Transport Plan. In developing the ISP Officers intend to build upon the 'Harrogate Wheelchair Accessible Vehicle Study' commissioned by Harrogate Borough Council and published in January 2020. The study was completed by an independent transport consultancy who considered the availability of licensed wheelchair accessible vehicles in Harrogate and proposed a package of measures with the aim of increasing availability. Once developed the ISP will identify and include:
- the demand for accessible services in their area, from wheelchair users and non-wheelchair users, and from people with both visible and less-visible impairments, and an assessment of the extent to which that need is currently being met;
 - the authority's strategy for making transport more inclusive, and specifically in relation to taxi and private hire vehicle provision;
 - the steps that the authority will take to improve the inclusivity of the taxi and private hire vehicle services it supports, including timescales for their completion;
 - that the courses or assessments authorities require applicants to undertake are suitable for a range of participants eg including older drivers.
- 4.8 After considering the consultation responses received (outlined at Appendices 2 and 4), it is proposed to make the following minor amendments to the draft policy:
- 1) clarified that full driving licences issued by EEA states will be accepted in respect of new driver applications (Section 309);
 - 2) emphasising the need to comply with all duties under the Equality Act 2010 and to clarify the likelihood of formal enforcement action in the event of a breach (Sections 331 and 332);
 - 3) replaced 'hackney carriage' with 'private hire' (Section 273);
 - 4) updated the Air Quality Management Areas across North Yorkshire (Sections 37-42);
 - 5) clarified that any accident or collision involving any passenger or member of the public must be reported in writing to the licensing authority within 24 hours (Sections 102 and 228);

- 6) included that a driver shall not at any time use electronic cigarettes or similar devices in licensed vehicles (Sections 130 and 255);
- 7) clarified that the licensing authority may consult with the North Yorkshire Safeguarding Adults Board and the North Yorkshire Safeguarding Children Partnership, and that the licensing authority will also have regard to statutory guidance (Working Together to Safeguard Children 2018) and the Care Act 2014 (Section 36);
- 8) in respect of vehicle signage, added that any sign specifically approved by an authorised officer or department of the Council may be displayed (Sections 75 and 200);
- 9) removed the condition which prevented a child below the age of 10 being carried in the front of a licensed vehicle (Section 392);
- 10) minor and inconsequential amendments to paragraph numbering.

5.0 Licensing Members Working Group

- 5.1 The Licensing Member Working Group is one of seven such groups established by the Executive at its meeting on 21 June 2022.
- 5.2 The Working Groups were set up to engage with Members on the necessary decision-making processes that are required prior to vesting day for the new North Yorkshire Council – 1 April 2023.
- 5.3 The Working Groups were also established as cross-party Task and Finish bodies to consider, review, and make recommendations to the decision taking body on areas within their remit. The Licensing Member Working Group is chaired by Councillor Derek Bastiman and comprises Members with significant licensing experience, supported by Officers from across North Yorkshire.
- 5.4 The Group met on three occasions, the first meeting on 7 October 2022 was to consider and review the draft Policy prior to seeking Executive's approval to go out to consultation. The second meeting on 19 December 2022 was to provide the Group with an update on the consultation and to highlight the key issues arising from it. The third meeting of the group took place on 24 January 2023 after the consultation had concluded. At this meeting Members reviewed the consultation responses received and the minor amendments to the draft Policy proposed by Officers, the Group also made three recommendations for the Executive to consider at its meeting on 7 February 2023.
- 5.5 The recommendations were as follows:
 1. Sections 47 and 173 of the draft Policy state that the licensing authority will only generally issue a licence in respect of a vehicle if:

'It is less than 5-year-old in the case of a new application and less than 10 years old in the case of a renewal and replace'.

Recommendation of the group:

- 5.5.1 In order to reduce the financial burden on the licensed trade, the Group made the following recommendations:
 - a) To remove the five year age limit for all new licence applications.
 - b) To increase the maximum age that a vehicle can be licensed to 15 years.
(The age of the vehicle is taken from the vehicle's V5 document)

2. Sections 84 and 210 of the draft Policy state that vehicles will be subject to six monthly testing if over the age of 5 years at the time the licence is granted or renewed.

Recommendation of the group:

- 5.5.2 In order to ensure the above recommendation does not have adverse effects on mechanical fitness, the Group recommended that the frequency of testing for older be increased as follows:

- a) Vehicles aged 0 – 5 years – one annual test a year (plus MOT)
- b) Vehicles aged 5 – 7 years – two annual tests a year (plus MOT)
- c) Vehicles over the age of 7 years – three annual tests a year (plus MOT)

3. Section 285 of the draft Policy states that a contract for hire of an executive vehicle, stretched limousine or other novelty vehicle would normally be in place no less than 24 hours prior to the commencement of the journey. In addition, it states that such vehicles would not be used to undertake standard private hire work. Section 288 of the draft Policy outlines the circumstances in which a plate exemption notice may be issued.

Recommendation of the group:

- 5.5.3 In order to provide executive hire operators with greater flexibility in terms of the type of work they may undertake, the Group made the following recommendations:

- a) To remove the requirement to have a contract for hire in place 24 hours prior to the commencement of the journey.
- b) To permit executive vehicles to undertake standard private hire work on the basis that the vehicle displays licence plates for the duration of this work.
- c) To include 'company dress code or corporate uniform' when considering the dress code to be followed.

- 5.6 After considering these recommendations, Officers have identified a number of implications and would make the following recommendations:

Recommendation 1

- 5.6.1 Sections 160 and 277 of the draft Policy currently exempts wheelchair accessible vehicles from the proposed vehicle age limits. This aims to encourage proprietors to invest in wheelchair accessible vehicles thereby improving both the availability and accessibility of these vehicles to disabled customers. Officers believe that by increasing the maximum age limit of all vehicles, there will be little incentive for proprietors to invest in wheelchair accessible vehicles as there will no longer be any tangible benefit. A higher vehicle age limit may also attract operators in neighbouring authorities with tighter age limits to license their vehicles with North Yorkshire Council. It is commonplace for such vehicles to then be predominantly, or in some cases exclusively used in other local authority areas. Vehicles working out of area and across local authority borders presents serious challenges in terms of enforcement and thus undermines the Councils' ability to safeguard the public. **In light of these implications, Officers would not recommend the vehicle age limits be extended beyond the 10 years proposed in the draft Policy.**
- 5.6.2 Sections 37 to 42 of the draft Policy outline the Council's approach to Air Quality Management Areas and licensed vehicles. Although no proposal has been made in terms of emissions and Euro Engine standards, the suggested age limits of 5 and 10 years

ensures that all licensed vehicles will meet or exceed the Euro 6 emission standards (requirement since September 2015), within 2 years of implementation. Officers however acknowledge there has been a sharp increase in used vehicle prices (as highlighted by the Licensing Members Working Group) and agree with the Group that the cost of purchasing a vehicle less than 5 years old may present a barrier to joining the trade. **In light of this, Officers would recommend that the 5 year age requirement for newly licensed vehicles be removed from the draft Policy.**

Recommendation 2

- 5.6.4 It is noted that this recommendation is linked with recommendation 1. Other than placing a more onerous testing regime on operators with vehicles over 7 years of age than currently proposed no significant implications have been identified. **On the basis that the 10 year vehicle age limit is retained, Officers would not recommend any changes to the testing regime outlined in the draft Policy i.e. annual testing for vehicles under 5 years of age with 6 monthly testing thereafter.**

Recommendation 3

- 5.6.5 Sections 278 through 291 of the draft Policy outline what is intended by the term 'executive vehicle' and how they differentiate from standard private hire vehicles. It should be noted that although some executive vehicles may be modern, high-end vehicles suitable for most types of private hire work, the term could also include a classic car which may not be as suitable in terms of design etc.
- 5.6.6 The restrictions on the type of work, contracts and booking arrangements (as shown in recommendation 3 and 4) are the only matters that distinguish a vehicle used for executive hire work from a vehicle used for standard private hire work. The removal of any such restrictions (even on a temporary basis) would be likely to cast doubt over the nature of the work at any given time. If officers are unable to distinguish between executive hire and private hire arrangements, the plate exemption provisions would be open to abuse and pose further challenges in terms of enforcement.
- 5.6.7 If the requirement to have a contract in place 24 hours before the commencement of a journey were to be removed, Officers would suggest requiring all executive vehicles to meet the standard criteria for licensed vehicles thereby negating the potential issues of unsuitable vehicles being used for general private hire work. **In light of these implications, Officers would not recommend any changes to the arrangements proposed in the draft Policy, other than to amend the dress code at Section 288 to include 'company dress code or corporate uniform'.**

6.0 Issues

- 6.1 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.
- 6.2 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.

- 6.3 A risk assessment (attached at Appendix 6) 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 will be addressed separately as they have differing procedures.
- 6.4 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.
- 6.5 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.
- 6.6 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 be subject to the same fee levels (addressed in a separate report).

7.0 Policy Implications

- 7.1 The policy implications are outlined within the report.

8.0 Financial Implications

- 8.1 The additional costs involved in drafting the proposed policy have been met from existing budgets. No additional financial implications have been identified.

9.0 Legal Implications

- 9.1 In accordance with section 45 of the 1976 Act, a council shall not pass a resolution to adopt the provisions of the 1976 Act unless they have published, in two consecutive weeks in a local newspaper circulating in their area, notice of their intention to pass the resolution and served a copy of the notice on all parish councils which would be affected by the resolution. The statutory notice was published in the Yorkshire Post on 24 January and 31 January 2023. A copy of the notice was served on all town and parish councils in the area between 20 January and 24 January 2023 (copy attached at Appendix 11).

10.0 Risk Management Implications

- 10.1 Refer to Appendix 6, 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:

- a) Members working from multiple policies, training issues, increased workload, inconsistent and flawed decision;
- b) seven different hackney carriage zones under the one authority. Criticism for acting contrary to the Department for Transport's ("DfT's) best practice guidance and leading to a diminished supply of hackney carriages and customer choice;
- c) drivers dropping off in one zone will have to return to home authority before another pickup;
- d) 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;
- e) increased workload in areas in the Council that have less restrictive requirements for driver, vehicle, and operator licences;
- f) caps on the number of non-wheelchair accessible hackney carriage vehicles would remain in place, which is contrary 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.

10.2 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) the proposed policy imposes no quantity restrictions on hackney carriage numbers which is in line with the DfT's best practice guidance. There is a potential risk of legal (or other) challenge from existing aggrieved proprietors where restrictions on non-wheelchair accessible hackney carriage vehicles currently exist, these challenges relate to the loss of protected status and perceived plate value;

for each risk summarised above, Appendix 6 shows the appropriate mitigation.

11.0 Equalities Implications

11.1 An Equality Impact Assessment has been carried out as part of this process, details attached in Appendix 7.

12.0 Climate Change

12.1 A Climate Change Impact assessment has been carried out as part of this process. This can be seen in Appendix 8.

13.0 Community Safety Implications

13.1 The policy is an important document that demonstrates 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 incorporates 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

Recommendation 1

- 14.1 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 trade’s 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 the Department for Transport’s 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.

Recommendation 2

- 14.2 Adoption of the proposed hackney carriage and private hire licensing policy, as shown in Appendix 1, with or without amendments.

Recommendation 3

- 14.3 If adopted, to authorise the approval of minor and inconsequential amendments to the policy from time-to-time by a senior officer to reflect legislative changes or correct any inaccuracies.

Recommendation 4

- 14.4 If adopted, to give approval for an Inclusive Service Plan (as outlined at paragraph 3.7) to be implemented within 18 months of adoption.
- 14.5 The Executive is now requested to make the resolutions as per the recommendations. It is proposed that all resolutions take 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.

15.0 Recommendation/s

15.1 Executive is recommended to:

- i. to pass a resolution 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 on 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. Adopt the proposed Hackney Carriage and Private Hire Licensing Policy as shown in Appendix 1, with or without amendments;
- iii. if adopted, to authorise the approval of minor and inconsequential amendments to the policy from time-to-time by a senior officer to reflect legislative changes or correct any inaccuracies;
- iv. if adopted to give approval for an Inclusive Service Plan (as outlined at paragraph 3.7) to be implemented within 18 months of adoption.

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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 – Comments to the online consultation survey

Appendix 3 – Visual summary of the online consultation survey

Appendix 4 – Responses received outside of the consultation survey

Appendix 5 – Officer review of consultation responses

Appendix 6 – Risk assessment

Appendix 7 – Equality Impact Assessment

Appendix 8 – Climate Change impact assessment

Appendix 9 – DPIA Screening Hackney Carriage Consultation

Appendix 10 – Membership of Licensing Members Working Group

Appendix 11 - Notice to Parish and Town Councils