

Report



Cabinet Member for Strategic Planning, Regulation and Housing

Part 1

Date: 10 January 2023

Subject Revision of Hackney Carriage (Taxi) and Private Hire Vehicles, Drivers and Operators Policies

Purpose For the Cabinet Member to consider amendments to the Council's Hackney Carriage (Taxi) & Private Hire Vehicles, Drivers & Operators Policy and approve the draft policy to go out for Public Consultation.

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Ward City Wide

Summary The Department for Transport (DFT) and Welsh Government agree there is a need for a common core of minimum standards for the taxi and private hire vehicle trade to improve public safety and standardisation. The Licensing Authority is required to review its current requirements in line with statutory Government Guidance standards and Welsh Government's recommended harmonisation "Taxi" guidance.

Proposal To approve a public consultation on the proposed amendments to Hackney Carriage (Taxi) & Private Hire Vehicles, Drivers & Operators Policy.

Action by Head of Environment and Public Protection

Timetable It is proposed the draft policy will be released for public consultation for four weeks. During this period, a "taxi" trade meeting will take place. It should be noted that both the Department for Transport (DFT) Statutory Guidance and Welsh Government taxi guidance have been consulted upon with the taxi trade and the public. The Newport consultation responses will be presented to the Cabinet Member with the intention of the policy coming into force on the 1 January 2023.

This report was prepared after consultation with:

- Head of Environment and Public Protection
- Head of Finance
- Head of People, Policy and Transformation
- Head of Law and Standards

Signed

Background

In July 2020 the Department for Transport (DfT) published Statutory Taxi & Private Hire Vehicle Standards with the focus on protecting children and vulnerable adults.

The DfT states a preference for a common core set of minimum standards to better regulate the taxi and private hire vehicle sector.

The DfT Statutory Guidelines are required to be considered and followed in Wales even though responsibility for taxi and private hire vehicle legislation has been devolved to the Welsh Government. However, should the Welsh Government introduce legislation to regulate on these matters, the DfT standards would cease to apply.

Newport City Council and all other licensing authorities in the UK will be expected to meet the minimum requirements of the DfT Statutory & Best Practice for taxi and private hire licensing or provide a explanation as to why they have not. The DfT statutory guidance stipulates:

“Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking; the standards must be considered rigorously and with an open mind.

Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these. The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

Clearly the Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority still remain a matter for that authority”

In March 2021, the Welsh Government published the document, Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales, which followed the Welsh Government’s White Paper ‘Improving Public Transport’ published in 2018. The aim of the recommendations contained in the document is to provide ‘quick fixes’ to improve the consistency of licensing standards and increase public safety across Wales. The recommendations form the basis for further development by Welsh Government into national standards. This non-statutory guidance has been produced jointly between the Welsh Government, the Welsh Local Government Association (WLGA) and representatives of local authorities across Wales via the Directors of Public Protection Wales.

Due to the overlap between the Standards and the Welsh Guidance, and the fact taxi regulation is now devolved, the Secretary of State for Transport has confirmed acceptance for Welsh Government to monitor compliance with the DfT Standards as part of their wider work with policy alignment recommendations.

Adopting the recommendations will lead to increased public safety, consistency of standards across Wales, harmonised enforcement, increased accessibility of vehicles and better standards of customer service.

It should be noted that Newport City Council’s current Taxi Licensing Policy already meets and addresses many of the DfT and Welsh Government guidance. As such only minor amendments are required for the Newport policy. Examples include the usage of the National Register for Revocation and

Refusals (NR3) and medicals for drivers. However, some of the proposed changes will require our existing policies to be subject to amendment. This is being undertaken to bring about greater consistency amongst licensing authorities.

The format of the Newport policy has also been revised to meet an All Wales “policy” format approved by the Welsh Government, once again it is hoped this will further harmonise with neighbouring authority’s policies and specifically assist those within the taxi trade that work within several licensing authorities’ areas.

Some of the matters referred to in the harmonisation document will have implications for the taxi trade in the city. One of the significant changes that are proposed relate to a requirement for 6 monthly Disclosure and Barring (DBS) checks for drivers, primarily via the DBS Update Service. Another change relates to increased criminality checks for Private Hire Operators and their staff. This will result in a minor change to the very similar Newport City Council’s “Fit and Proper” policy.

A copy of the draft policy is attached as Appendix A of this report (the changes within the policy document are highlighted in red).

In Summary, the main changes for consideration are as follows.

Drivers

- Recommendation for drivers to join the DBS Update Service and a requirement to have a DBS check every 6 months. There will be no financial impact on the trade or extra administration for the drivers if they sign up to the DBS Update Service. Although, it will require the Licensing Team to check approximately 3,000 drivers each year. Currently this figure is about 500 checks per year. This will have an impact on workload of the team.
- Minor changes have been made to the “Fit and Proper Test” in line with DfT and Welsh Government Guidance.
- Minor changes to the Driver Code of Conduct have been made in line with Welsh Government Guidance.
- Minor changes to Private Hire Driver Conditions have been made in line with the Welsh Government’s Recommendations. It should also be noted that Newport City Council has determined to introduce a new condition to Private Hire drivers’ conditions that means once a driver has accepted a booking from a Private Hire Operator the driver must undertake the booking unless there is a good reason, or the operator determines to cancel the job. There have been increasing reports in recent months where a customer books a vehicle, and the operator and driver accept the fare, the driver then cancels at the last moment. This leaves customers frustrated. There are also significant safeguarding concerns if this occurs with a customer who is vulnerable or is in a vulnerable situation.
- A new requirement of the policy involves the need for renewal drivers to undertake revised training on safeguarding every 3 years (though should be noted no examination will take place, but simply refresher training).

Vehicle

- New requirement for vehicle proprietors to have an annual DBS check and to meet Fit and Proper Test.
- To fully adopt the Welsh Government’s policy on CCTV and Video Point of Impact Systems (Dash Cams) in Hackney Carriage and Private Hire Vehicles.
- Impose the Welsh Government’s recommendations for accessibility conditions on vehicle proprietors of taxis and private hire vehicles.
- Though not stipulated in Welsh Guidance, the Licensing Authority has also determined to revise its Environmental Policy on all licenced vehicles. All **new** vehicles licenced after the introduction of the

policy (proposed to be 1 January 2023) shall meet the Euro 6 emission standard, which was introduced on 1 September 2015, meaning any vehicle manufactured after this date would legally be required to meet.

- Also, the policy stipulates that all **new** vehicles being licenced after 1 January 2027 will be required to be electric or hydrogen fuelled or run on approved renewable fuel. This is in line Newport City Council Climate Change Plan 2022-27 Theme 4: Transport & Mobility.
- “Grandfather rights” for existing licence holders are found within the Emission standard policy.

Operators / Vehicle Proprietors

- “Fit and Proper Test” will also apply both to operators and vehicle proprietors.
- Revised Operator Conditions in line with recommendation from the Welsh Government.

General

- To commit to reviewing Licensing Policies every 5 years in accordance with the DfT’s Statutory Standards.

It is proposed that consultation will take place with the trade and stakeholders on the various changes recommended in the guidance document prior to submission of more detailed reports to the Cabinet Member for adoption.

Both the DfT and Welsh Government Harmonised Standards have already been circulated to drivers, vehicle proprietors and operators. Also, trade and public consultation has already taken place by the DfT and Welsh Government before bringing in the current statutory guidance.

In conclusion the authority is required to review its compliance with the Statutory Standards and Harmonisation Guidance and implement any required changes or publish reasons why it has decided not to do so.

Financial Summary (Capital and Revenue)

There are no direct costs or financial implications relating to consulting on the draft policy. All Licensing fees and charges are recovered on a cost recovery basis and would feature in a separate report.

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs (Income)	0	0	0	0	
Net Costs (Savings)	0	0	0	0	
Net Impact on Budget	0	0	0	0	

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Failure to Meet Statuary Guidance	H	L	It is clearly stated in the DfT guidance that if authorities fail to comply with the statutory guidance serious questions could be raised if the authority is conducting appropriate safeguarding practice. the revision of the policy will clearly mean the authority will comply with Government Guidance.	Licensing Manager
Judicial review	H	L	The Licensing Authority will undertake consultation with the taxi trade, offering trade members to meet and discuss the Policies. The policy has been developed in accordance with Statuary Government Guidance and Welsh Government Guidance.	Licensing Manager
Licensing Panels depart from taxi legislation/ best practice.	M	L	If the Panel wishes to depart from best practice, they must give good reason for this and obtain advice from the Legal Officer. Members training and members briefing regarding the policy.	Chairperson. Legal Officer.

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

Ensuring that this work is completed as required will support the following Council Policies and Strategies:

The proposed revised draft policy has clear links to the aims and objectives of Newport City Council's Corporate Plan (relevant themes are "Resilient communities" "Vibrant Newport" and "Safer Newport"). The Hackney Carriage trade not only play an interregional part of public transport landscape but also the success of Night-time economy.

This proposal is line with statutory legislation and guidance that governs Hackney Carriage vehicles.

The emissions standard found within the Licensing policy is in line with the Newport City Council Climate Change Plan 2022-27

Options Available and considered

The Cabinet Member may decide:

- A. To continue with the existing Hackney Carriage and Private Hire "Taxi" Policy and therefore decide there is no reason to consult on the proposed new version.
- B. To agree the new version requires consultation in the public forum and decide it is circulated for formal public consultation.
- C. To consider an alternative way of amending the Policy.

Preferred Option and Why

The preferred choice is option B, to approve the draft "taxi" policy with the recommendations in the report and go out to formal public consultation. Failure to comply with Statutory Guidance and Welsh Government guidance would question if the authority safeguarding regarding taxi licence is appropriate.

Comments of Monitoring Officer

The proposed amendments to the Council's Hackney Carriage & Private Hire Vehicles, Drivers & Operators Policy are in accordance with the Council's statutory licensing powers under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. The purpose of the policy is to ensure that all decisions to grant, renew and revoke driver, vehicle and operators' licences are taken in a fair and consistent manner, having regard to the requirements of the legislation and statutory guidance. The Department for Transport has now published statutory Taxi & Private Hire Vehicle Standards with a view to standardising and harmonising licensing standards across all local authorities, with a particular focus on protecting children and vulnerable adults. In addition, the Welsh Government has published further non-statutory guidance to improve the consistency of licensing standards and increase public safety across Wales. Therefore, the Council's current Licensing policy needs to be amended to comply with these new national standards prescribed by the DfT and Welsh Government. For the most part, the current policy already meets the national standards, but the Report highlights those areas where minor amendments are required. Although licensing decisions are non-executive functions carried out by officers and Licensing Committee, the determination of licensing policy is an executive decision for the Cabinet Member, in accordance with the Functions and Responsibilities (Wales) Regulations. Although the DfT and WG guidance has already been subject to consultation with the taxi and private hire trade at a national level, the proposed policy changes will have a direct impact on drivers and operators in Newport. Therefore, they have a legitimate expectation that they will be consulted about the proposed policy changes and that their views will be taken into consideration before any final decision is taken. In addition, there should be a further period of public consultation to canvass their views about the proposed changes. Therefore, the Cabinet Member is asked to agree the proposed amended Hackney Carriage & Private Hire Licensing Policy for the purposes of consultation and to consider any representations received before taking a final decision to adopt the new policy

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Comments of Head of People, Policy and Transformation

The draft taxi licensing policy aims to protect the public and promote public safety and works towards four objectives:

- **Safety** – Operators, vehicles and drivers will be safe and suitable for licensing
- **Environment** – licensed vehicles should contribute to targets for a cleaner environment
- **Equality** – All passengers should have access to a suitable vehicle. Driver and operators should provide a service that fits customer needs
- **Customer Experience** – All customer should experience a good standard of taxi/PHV service.

These objectives are consistent with the Wellbeing of Future Generations Act 2015 in terms of the National Wellbeing Goals and ways of working and the Councils own wellbeing objectives. A safe and well-regulated taxi industry would contribute to economic growth, regeneration, improved visitor experience and help achieve sustainable development. The report notes that the policy reflects Welsh Governments aim of harmonising licensing standards across Wales and that consultation with the taxi trade would follow the agreement of this draft policy.

There are no direct human resources implications within the report.

Scrutiny Committees

No consultation with Scrutiny Committees is required.

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

Fairness and Equality Impact Assessment:

Attached as Appendix B

Wellbeing of Future Generation (Wales) Act

The sustainable development principle and 5 ways of working set out in the Wellbeing of Future Generations Act have been considered as outlined below:

- **Long term:** The Taxi Policy will ensure Newport has clear guidelines for taxi firms to consider the long-term impact on their business. The policy is required to be reviewed regularly, the DfT standards advocate that any taxi licensing policy is reviewed every 5 years but also consider interim reviews, if there are significant issues arising in the area before that time.
- **Prevention:** There is an emphasis on prevention as the policy and licensing process ensures that a number of checks and safeguards are in place before a licence is granted. It places notification requirements on individuals to report matters affecting their suitability during the currency of a licence.

- **Collaboration:** The harmonized measures proposed in the Welsh Government guidance will ensure that there is a consistency across local authorities in Wales in relation to how licensing authorities will approach the licensing of drivers, vehicle proprietors and private hire vehicle operators. Furthermore, the adoption of the measures advocated by the Department of Transport's Statutory Taxi and Private Hire Vehicle Standards dated July 2020 will be national reaching across the whole of the UK. Clearly comprehensive consultation will take place as highlighted within the report.
- **Involvement:** As highlighted with the report discussions, engagement sessions will take place during the consultation. Consultation documents will be available in hard copy or via email. All members of the trade will be emailed regarding the consultation alongside how to contact council officers if they have any questions or queries.

Crime and Disorder Act 1998

The fundamentals of "taxi" licensing is to safeguard and protect those who are most vulnerable in society.

Consultation

The public consultation is proposed to last four weeks and include a trade meeting led by the Licensing Manager. All members of the trade will be notified of the public consultation via email. It should be noted the trade have already been notified that the authority will be required to adopt best practice, unless it has good reason not to.

Background Papers

Background Papers:

[Department for Transport, Taxi and Private Hire Licensing Guide: Best Practice Guide](#)

Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales –

[Taxi and private hire vehicles: licensing guidance | GOV.WALES](#)

Newport City Council Current Taxi policy : <https://www.newport.gov.uk/documents/Business/Licences-and-permits/Taxi-Licensing-Policy-from-01December2017.pdf>

Dated: 10 January 2023