



Appendix 2

Report to Licensing (Regulatory) Committee

Date: 3rd February 2021

Title: Buckinghamshire Council Taxi and Private Hire Licensing Policy

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Recommendations:

1. To note and comment on the content of the report
2. To agree the Final draft of the Buckinghamshire Council Taxi and Private Hire Licensing Policy and recommend its approval and adoption by Full Council with an implementation date of the 1st August 2021
3. To recommend that the Council remove the existing licensing zones for taxi and private hire vehicles and authorise officers to undertake the necessary associated administrative and legal work for this.
4. If adopted, to authorise the approval of minor amendments of the Policy by the Head of Service for Licensing in agreement with the Chair of the Licensing (Regulatory) Committee and Cabinet Member for Regulatory Services

Background

- 1.1 The Council is committed to adopting a new taxi and private hire vehicle licensing policy to support the alignment of the licensing regimes of the former Districts. As reported to the Licensing (Regulatory) Committee on 1 July 2020, the adoption of a new policy presents an opportunity to ensure Buckinghamshire Council licensed vehicles, drivers and operators are all held to the highest possible standards along with consistency for both drivers and the public.
- 1.2 Officers from the Licensing Service have drafted a new policy in collaboration with the Council's policy team. The new policy (see appendix 1) has been benchmarked against existing policies and the new Statutory Taxi and Private Hire Vehicle

Standards (published July 2020) (see appendix 2). Measures proposed in the new policy will impact on the existing licensed trade to varying degrees depending on the legacy area within which they currently operate and on their own current operational arrangements (e.g. current age and specification of vehicles), with some potentially more significantly affected than others. New entrants to the trade will also be impacted as a result of higher standards required of vehicles, drivers and operators. The policy also considers the application of “grand father” rights in respect of the existing trade.

- 1.3 Pre-engagement consultation with stakeholders has been carried out including an online survey, which ran from the 7th – 27th September, and the associated communications plan which included targeted communication with the taxi trade. Licensing Committee member workshops were held on 15th and 16th September and the responsible Cabinet Member and the Chair of the Licensing Committee have also been fully engaged throughout the process. A progress update paper was presented at the Environment & Localism Select Committee on the 24th September. Feedback received throughout the pre-engagement period was incorporated into a draft policy which was presented to Licensing (Regulatory) Committee on the 2nd November who tasked officers with carrying out a full public consultation on the Policy as drafted.
- 1.4 A public consultation on the Policy was undertaken between 10th November 2020 and 4th January 2021. The consultation period was extended for a further 2 weeks from the initial proposed end date of the 21st December by agreement with the Cabinet Member for Regulatory Services and the Chair of the Licensing Committee following requests from the taxi trade and the Licensed Private Hire Car Association. During the consultation period officers carried out meetings with the taxi trade as well as providing an Executive Summary of the Policy, a summary of key policy areas and providing a video Q&A session which were made available on the website and sent directly to the taxi trade via email and SMS where correct contact information was held.
- 1.5 A key policy issue concerns hackney carriages and the proposal that the five current geographical hackney zones, with their own byelaws, vehicle specifications and wheelchair accessibility, ranks, limitation policy (in respect of Aylesbury Town), licence fee and fares should be removed and replaced with one single new hackney zone across the Buckinghamshire Council area

Main content of report

2. Consultation survey and responses

- 2.1 An online consultation was undertaken between 10th November 2020 and 4th January 2021. Information on the survey was provided to key stakeholders, including the taxi trade, via email, SMS, social media and member newsletters. A

total of 636 responses were received with 23% of responses received from residents and 70% of responses from the licensed taxi trade (hackney and private hire drivers, operators and taxi trade organisations). This contrasts significantly with the pre-engagement survey that was carried out in September 2020 where 58% of responses received were from residents. Both surveys are referenced within the content of this report. A copy of the full consultation executive summary and survey report is attached as appendix 3, copy of a response from the Licensed Private Hire Car association (LPHCA) is attached as appendix 4 and a copy of the pre-engagement summary public survey results is attached as appendix 5.

3. **Statutory Standards**

- 3.1 In accordance with the Policing and Crime Act 2017, the Department for Transport published new standards for taxi and private hire vehicles in July 2020 with the aim of safeguarding children and vulnerable adults from abuse and exploitation. Councils must have regard to these new standards and it is expected that they will be adopted unless there is compelling local reason not to. A separate report on the implementation of the statutory standards will be presented to the Licensing (Regulatory) Committee on the 3rd February 2021 to enable focused consideration of the new standards and their application within the new Buckinghamshire Council Taxi and Private Hire Licensing Policy.

The majority of the statutory standards had already been adopted in the former District Council areas. However the Policy will implement additional requirements as set out in the standards in the following areas:

- Policy to be reviewed every 5 years and annual performance reviews
- Retrospective application of the new policy in some areas (e.g. English language testing and criminal convictions policy)
- 6 monthly DBS checks and subscription of drivers to the DBS Update Service (currently, driver DBS checks are performed every 3 years on licence renewal)
- Annual DBS checks for vehicle owners where they are not licensed drivers
- Annual basic DBS checks for operators where they are not licensed drivers (these are currently carried out every 5 years on renewal of the licence, or 3 yearly for driver/operators), basic DBS checks on all staff responsible for bookings.

4. **Other key policy changes:**

- 4.1 Beyond the statutory standards, the policy introduces further robust measures which will be new to some or all of the former District areas. These include:

- Vehicle emissions policy: aspiration of ultra low or zero emission vehicles by 2030. New licences for vehicles exceeding Euro 6 only and renewals for vehicles exceeding Euro 5 only.
- New vehicles to be less than 5 years old and vehicle licences ceasing once the vehicle is 10 years old (limousines / prestigious vehicles and low emission vehicles 15 years).
- Disability awareness training for drivers and operators. Specific training for all drivers of Wheelchair Accessible Vehicles (WAVs).
- English language testing for all drivers – new applicants and those who have not previously been tested (as required by the Statutory Standards).
- Compulsory Safeguarding training for operators, with refresher training for drivers and operators every 3 years.
- Knowledge test for operators (knowledge test for operators will cover legislative and policy requirements rather than local geographical area knowledge)
- Drug testing of drivers in appropriate circumstances or where there is cause for concern

4.2 The adoption of the new policy as drafted will ensure that Buckinghamshire Council not only meets its statutory obligations, but will help promote the highest standards to secure public safety and promote a cleaner environment. Elements of the policy will inevitably place a higher financial burden on the trade, notably in terms of the proposed vehicle age limits. Additional testing, assessment and record keeping requirements introduced by the new statutory standards, particularly in relation to the 6 month DBS checking requirements, will also place additional burdens on the trade and on Licensing Services resources. It should be noted that policy changes which increase the work required within Licensing Services will be reflected in the licensing fees charged to the trade. Case law judgments indicate that Licensing Committees should not take financial considerations into account when reaching taxi licence decisions and that the over-riding objective must be public safety. This is of relevance here and means that whilst the Council may be mindful of fee impacts on the taxi trade, this cannot take precedence in decision making.

4.3 It is not currently possible to provide a detailed indication of the financial impact policy changes may have on the taxi trade ahead of the decision to recommend the approval and adoption of the final Policy. Most changes to taxi licensing fees and charges require public consultation and as such any proposed changes to the existing charging structures will be presented to Licensing (Regulatory) Committee to review ahead of a further public consultation process.

5. **Policy consultation feedback:**

5.1 Alongside adoption of a new policy, there are some key areas of contention and complexity that have been considered as the Council moves to align policy areas of the former Districts:

5.2 **Hackney Carriage Zones**

There are currently 5 separate hackney carriage zones in the Buckinghamshire Council area, with separate requirements in respect of vehicle specifications, fares payable and areas where they are permitted to stand and ply for hire. In addition, Aylesbury Town currently has a limitation policy of 50 hackney carriage vehicles. The policy as drafted reflects the recommended decision to remove the zones which will mean that hackney carriage vehicles will be free to ply and stand for hire across the entire Buckinghamshire Council area.

5.2.1 The context and rationale supporting this recommendation were clearly set out within the Licensing (Regulatory) Committee report and appendix (hackney carriage unitary decisions) of the 2nd November 2020. Feedback obtained from the pre-engagement survey carried out in September 2020 around the retention or removal of hackney carriage zones was mixed with 41% of responders indicating that they felt that the existing zones should be retained, 27% indicating that they should not be retained and 32% unclear on either option.

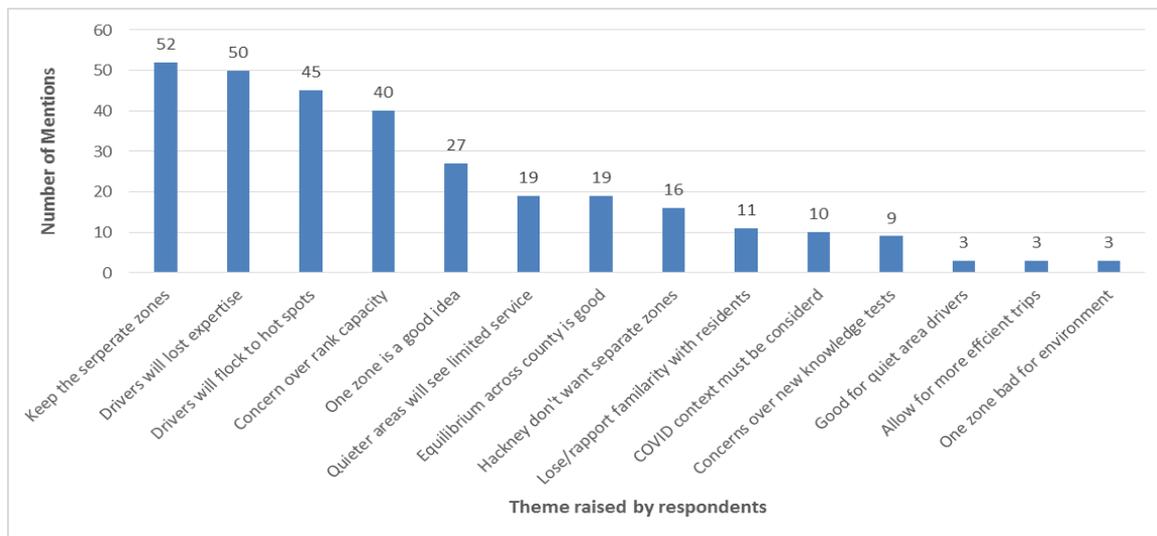
5.2.2 Feedback from the public consultation held between the 10th November 2020 and the 4th January 2021 indicates that the view on removal of the existing hackney carriage zones remains mixed with a difference in responses of 7.8% in favour of disagreement versus agreement. When this is reviewed by respondent type the picture is more complex. Residents are split on agreement and disagreement. Private Hire Drivers and Operators agree with the policy with a slight majority of 4-6%. Hackney Carriage drivers and Business Owners are in strong disagreement with the Policy. Area differences are also present with Aylesbury Vale and South Bucks drivers in slight agreement with the policy by 3-4%, whereas Chiltern and Wycombe drivers are in strong disagreement with the policy. Respondent type is relevant to this as 70.4% of Aylesbury Vale respondents to the consultation are Private Hire drivers and 73.8% of Chiltern respondents are Hackney Carriage drivers. This may influence the results on this issue because Hackney Carriage drivers are more likely to disagree with the policy approach to remove the existing zones as they are arguably more directly impacted.

5.2.3 Respondents were asked to make further comments about the removal of hackney carriage zones and the most common themes raised included:

- concerns that hackney carriage drivers would not have the necessary expertise and knowledge of local areas

- that hackney carriage drivers would flock to ‘hot spot’ areas e.g. town centre locations
- that taxi rank capacity would not be sufficient for the number of hackney carriage vehicles in ‘hot spot’ areas.

These concerns were also raised in a petition from the Wycombe area hackney carriage drivers (41 signatures) (contained within appendix 3). A summary of the open responses received by theme is provided below:



- 5.2.4 The breakdown of open responses and reasons for disagreement with the removal of the existing hackney carriage zones indicates that hackney carriage drivers and business owners are more likely to raise comments indicating disagreement, and to reference local area expertise and that vehicles will flock to ‘hot spots’, as reasons for this. Of note is that these respondents did not raise concerns about rank capacity in their open comments to any higher degree than other respondent groups.
- 5.2.5 Open comments that indicated agreement with the removal of the existing zones were also analysed and show that drivers from the South Bucks area were more likely than drivers from other areas to comment positively.
- 5.2.6 Having considered the consultation feedback alongside information on the potential advantages and disadvantages of removing the existing hackney carriage zones, including from other unitary authorities where a similar approach has been taken, the Policy as drafted reflects the recommendation to remove the existing hackney carriage zones and limitation policy for the Aylesbury town area and replace them with a single zone for the Buckinghamshire Council area. This decision is in line with DfT guidance which states that a one zone approach is best practice

and that limitation zones should only be retained if the Council is satisfied that there is no significant demand which is unmet.

- 5.2.7 The formation of the new Buckinghamshire Council unitary authority by government on the 1st April 2020 was based on the opportunities that this would present in terms of the rationalisation and streamlining of services, as well as the provision of joined up services for residents. The creation of the new Council provides an opportunity for a coherent and more joined up approach on taxi and private hire licensing across the Buckinghamshire Council area, enabling greater innovation in service provision for residents and informed strategic decision making in terms of the direction of travel for the future.
- 5.2.8 A key consideration has been a desire to ensure that how we operate in the future reflects the priorities of the new Buckinghamshire Council in terms of protecting the environment and promoting the local economy for businesses and residents. Creating a single zone enables hackney carriages to operate across the Council area and respond flexibly to meet demand. Hackney carriages travelling across the Buckinghamshire Council area will be more able to pick up a fare on a return journey, limiting the amount of time spent travelling unoccupied and increasing earning potential. A single zone will also assist the implementation of a single set of standards and tariffs, simplifying the system for taxi users and for the licensed trade and supporting the delivery of a tariff regime that is sufficient to allow the taxi trade to flourish going forward. It should also deliver better distribution of wheelchair accessible vehicles across the Buckinghamshire area providing a more consistent service for users.
- 5.2.9 It is accepted that there will inevitably be a 'settling down period' following implementation of the removal of the existing hackney carriage zones during which there may be migration of hackney carriages to more densely populated locations and congestion on some ranks at peak times. Evidence from other unitary authorities who have followed a similar approach indicates that negative impacts should level out over time, as market forces take effect and supply flexes to meet demand, ultimately providing a better service for users.
- 5.2.10 The Council has committed to reviewing the existing taxi rank provision across Buckinghamshire following the adoption of the new Taxi and Private Hire Licensing Policy and this will form part of the Licensing (Regulatory) Committee work programme for 2022/23.

5.3 **Wheelchair accessible vehicles (WAVs):**

The legacy district areas currently have different requirements in relation to vehicle specifications and wheelchair accessible vehicles:

Current wheelchair accessible vehicles by type:

% or vehicles that are WAVS	Aylesbury	Wycombe	Chiltern	South Bucks
Hackney Carriage	100%	48.3%	1.4%	1.2%
Private Hire Vehicle	4.4%	6.7%	1.4%	1.25%

5.3.1 The policy as drafted proposes that all new, additional licensed hackney carriage vehicles must be wheelchair accessible vehicles (WAVs). Whilst this measure is primarily intended to ensure an adequate provision of WAVS within the mixed taxi and private hire fleet, it is also likely to limit in part the number of new entrants to the market because of the additional financial outlay required. This should go some way towards balancing concerns regarding an influx to the market for the existing trade associated with removal of the existing hackney carriage zones. Existing hackney carriage providers will be able to replace their vehicle with a similar type vehicle at the point it reaches the maximum vehicle age limit, ensuring the long term provision of a mixed fleet. Where the existing vehicle is a 'black cab or similar type specification' hackney carriage or a rear loading vehicle, providers will be able to replace the vehicle with a different type of WAV if they wish to do so. This approach should result in a mixed fleet which is considered to be best practice.

5.3.2 Consultation responses indicate that overall respondents tend to disagree with this policy, the difference between agreement and disagreement is 6%. However when reviewed by respondent type, responses are more nuanced with residents split on agreement and disagreement, hackney carriage drivers in agreement with a difference of 4% and all other groups in disagreement. A further breakdown of open responses on the requirement for all new hackney carriage vehicles to be WAVs provides the following key reasons for disagreement:

- Not enough demand for wheelchair accessible vehicles
- Split fleet is preferable (mix of wheelchair access and non)
- Increases vehicle costs dramatically
- Customers do not like 'larger' cars and can struggle to get in

5.3.3 Having considered the consultation feedback the Policy will require that all new, additional licensed hackney carriage vehicles are WAVs. Current Policy requirements in all previous District Council areas require that new hackney carriage vehicles must be WAVs and it is therefore considered that this is not a

change for the existing licensed trade. The removal of existing hackney carriage zones will enable hackney carriage vehicles to operate across the Buckinghamshire Council area. This open market approach should increase the availability of WAVs, balancing up to some extent the differences in legacy Council area WAV availability for users and maintaining a mixed fleet. This requirement should be reviewed again by the Licensing (Regulatory) Committee following implementation of the new Policy and a suitable 'settling down period', when market forces should have determined longer term supply issues. At this time it will be possible to gather a more representative picture of WAV provision across the Buckinghamshire Council area and consider whether further Policy changes are required. There is a requirement to review the new Policy every 5 years and more often if there are significant local or national changes to the market.

5.4 **WAV specification:**

The Policy as drafted requires that any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle, must have either European Community Whole Vehicle Type Approval (ECWVTA), or Individual Vehicle Type Approval. Officers will work with the licensed trade over the coming months to jointly design and agree a detailed vehicle specification which will sit outside of the Policy document. Licensing (Regulatory) Committee will be kept updated on progress with this piece of work.

5.5 **Vehicle age and Emissions:**

The policy as drafted sets maximum licensed vehicle age limits of 5 years old at first licence with any licence ceasing when the vehicle is 10 years old. Vehicles deteriorate due to a combination of age and use and are constantly being improved by manufacturers. In addition improved standards are regularly imposed by the Government, such as Euro 5 and Euro 6 emission standards which are reflected in the policy requirements. Newer vehicles are safer, less environmentally damaging and less likely to break down. A younger fleet should reduce the need for frequency of vehicle testing to every 12 months as well as reducing the level of enforcement activity required. Existing vehicles which are licensed by the Council and were not previously subject to this age requirement and are older than 10 years will continue to be licensed until the vehicle is 15 years old or until 1st April 2023 (whichever is sooner) when the licence will cease. This lead in time enables the existing licensed trade to plan and prepare for a change in fleet. This will be the case for all vehicles other than the following exceptions which will be licensed up to their 15th year; previous Aylesbury Vale hackney carriage vehicles of black cab type or similar specification, ultra low emission vehicles and prestigious/limousine vehicles.

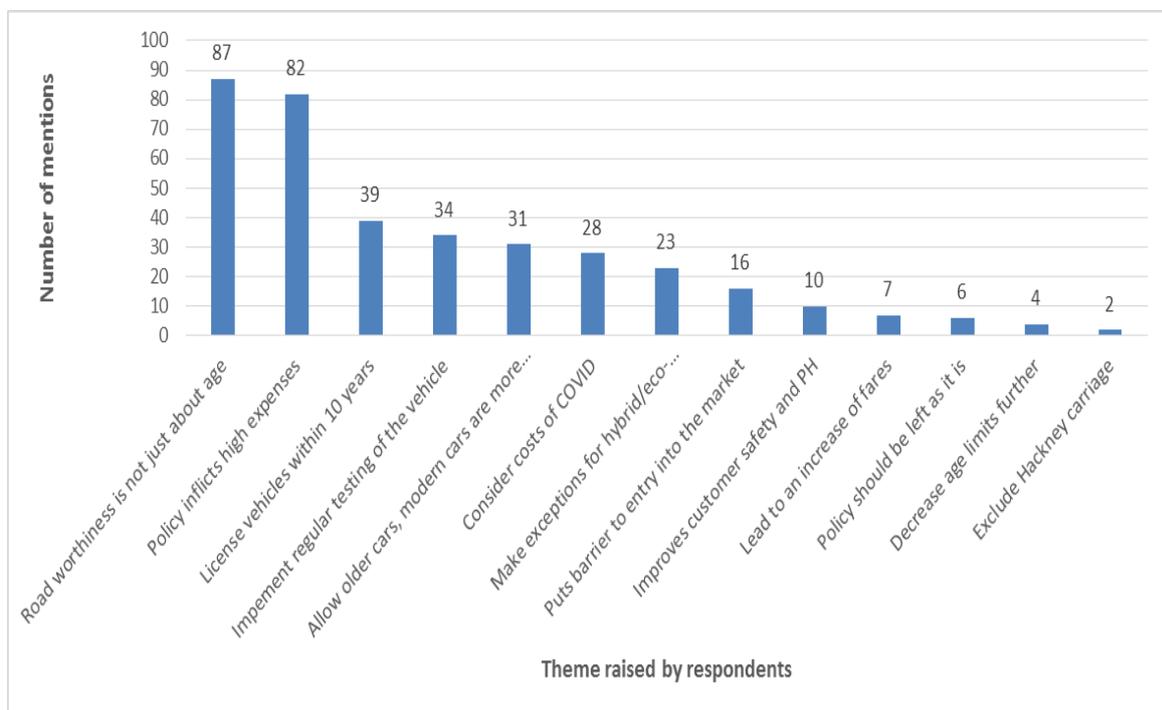
5.5.1 Consultation responses indicate that a majority of respondents (65%) disagree with this policy with all groups of a similar view. The LPHCA response is also in

disagreement with the Policy stating that ‘arbitrary age policy is ineffective and is not the best way to establish a vehicle’s safety and suitability’. When responses from drivers are analysed by the area within which they are currently licensed Wycombe drivers have the least extent of disagreement. The Policy mirrors the current vehicle age requirements in the Wycombe area so this group are likely least impacted.

5.5.2 A further breakdown of open responses on the maximum licensed vehicle age limits provides the following key reasons for disagreement:

- Road worthiness is not just about age
- Policy will inflict high expenses, not feasible to meet
- Vehicles within 10-year range should be able to be licensed

A summary of the open responses received by theme is provided below:



5.5.3 In contrast with the majority of respondents, responses from disabled people or those with long term health conditions indicate that they are much more likely to agree (47%) with the maximum licensed vehicle age limits within the Policy. This may correlate with the information obtained within the pre-engagement survey carried out in September 2020 which had a much higher response rate from residents (58%). These previous survey results confirmed that the requirement for vehicles to be safe and roadworthy was extremely important with 90% of

respondents stating this to be the case. The need for vehicle interiors to be clean, tidy and presentable was also considered to be important with 96% of respondents rating this as fairly or extremely important. In addition 91% of respondents said that it was fairly or extremely important that vehicle exteriors are also in a good condition. These results (below) show a clear view that the overall safety, condition and standard of licensed vehicles should be high.



Thinking about taxi vehicles, how important are each of the following points to you?	Extremely important	Fairly important	Neither important or unimportant	Fairly unimportant	Extremely unimportant
Vehicles are safe and roadworthy	90%	8%	0%	0%	0%
Vehicle interiors are clean, tidy and presentable	68%	28%	3%	0%	1%
Vehicles can be clearly identified as 'taxi'	66%	20%	8%	3%	2%
Vehicle exteriors are in good condition	53%	38%	5%	2%	1%

5.5.4 The DfT Taxi and Private Hire Vehicle Licensing Best Practice Guidance (2010) states that it is possible for an older vehicle to be in good condition and therefore the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate.

5.5.5 In January 2021 officers carried out a vehicle age policy benchmarking exercise of 45 other local licensing authorities in England. Of these authorities 40 (89%) had licensing policies in place that set vehicle age limits. Of these policies 19 (47.5%) were more onerous in terms of age limits than the licensed vehicle age limit for Buckinghamshire. Where age limit policies are in place, the majority (21 or 52.5%) have set a lower vehicle age limit of maximum 5 years at first licence as for the Buckinghamshire Council area, perhaps reflecting the link to the Euro 6 emissions manufacture date. It is worth noting that 8 authorities (20%) have set a lower vehicle age limit of a maximum of 3 or 4 years at first licence.

5.5.6 Currently the Council has limited data available on licensed vehicle testing as a result of the different arrangements in place in each of the previous District Council areas. However in the Aylesbury Vale area licensed vehicle testing is carried out in-house at the Pembroke Road depot in Aylesbury and data is available. The Council

(Aylesbury Vale zone) currently requires all licensed private hire and hackney carriage vehicles to pass an annual MOT regardless of age. Vehicles are also required to pass an additional enhanced vehicle inspection to ensure that they meet the Council’s policy requirements and conditions.

5.5.7 Officers carried out an analysis of MOT test results from the Council’s approved testing centre at Pembroke Road. Results were compiled for pass and fail rates on first MOT for all private hire and hackney vehicles presented for testing during the periods 19th October to 23rd December 2020. Only details for pass rates on first test were considered as this is an indication of whether vehicles are in a roadworthy condition when first presented for testing. The results show that of the 271 tests carried out during this period there is clear evidence of declining pass rates as vehicles age. Vehicles less than 5 years old have a pass rate in excess of 75%, vehicles more than 6 years old have a pass rate of 50% or less. The results (accepting limitations of duration and scale) do generally support a correlation between the age of the vehicle and roadworthiness as illustrated below:

Vehicle age (years)	Vehicle fail at first MOT	Vehicle Pass at first MOT	Total vehicles tested	% of vehicles tested that pass MOT
1	1	4	5	80%
2		8	8	100%
3	1	5	6	83%
4	1	12	13	92%
5	4	13	17	76%
6	19	23	42	55%
7	28	26	54	48%
8	24	12	36	33%
9	22	20	42	48%
10	23	8	31	26%
11	4	2	6	33%
12	3		3	0%
13	4	2	6	33%
15	1	1	2	50%
Grand Total	135	136	271	

5.5.8 DfT guidance also suggests that Licensing Authorities may wish to consider how far the vehicle licensing policy can and should support local environmental policies that the Council may have. The Council may also decide to set vehicle emissions standards by promoting cleaner fuels. A review carried out by the National Society for Clean Air and Environmental Protection in 2005 found that taxis were more likely than other vehicles to fail emissions tests. A review of MOT test information obtained for licensed vehicles tested at the Pembroke Road testing centre between

the 20th October and the 20th December 2020 supports this. MOT test failures by category were analysed and the site failure rate average was then compared to the national failure rate average. The results show that the site failure rate average for licensed vehicles tested during this period was 17% as a result of 'noise, emissions and leaks' in comparison with the national failure rate average of 11%.

- 5.5.9 The Council considers that every effort should be made to improve the efficiency of vehicles licensed to operate in its area by reducing the emissions of pollutants such as nitrous oxides, particulate matter and carbon dioxide. The European Union has introduced stricter limits on pollutant emissions from light road vehicles, particularly for emissions of nitrogen oxides and particulates. In order to limit pollution caused by road vehicles, this Regulation introduces common requirements for emissions from motor vehicles and their specific replacement parts (Euro 5 and Euro 6 standards).
- 5.5.10 Age limits set within the Policy are closely linked to these emissions standards. Vehicles first registered since September 2015 must meet or exceed Euro 6 emission standards. The recommended requirement is that from the date of implementation of the Policy (likely to be summer 2021), new vehicle licences will not be granted to vehicles that were first registered more than 5 years prior to the date that the application was made. All newly licensed vehicles will therefore meet Euro 6 emissions standards. Vehicles first registered since January 2011 must meet or exceed Euro 5 emission standards. From the date of Policy implementation (likely to be summer 2021), licences will not be renewed in respect of any licensed vehicle that was first registered more than 10 years prior to the date of renewal, other than those subject to grandfather rights under the age limits policy. All such vehicles will therefore meet Euro 5 standards, other than those subject to grandfather rights for a limited period. The Policy also commits to issuing licences to ultra-low or zero emission vehicles only by 2030. To encourage the use of less polluting vehicles, taxis that produce ultra-low or zero emissions will also be licensed for a longer period until they are fifteen years old.
- 5.5.11 Consultation responses indicate that overall respondents disagreed with the emissions policy by 8.9% more than they agreed. There are notable differences in driver responses when analysed by the area within which they are currently licensed, with drivers licensed in the Chiltern area most likely to disagree with the policy (17 of these respondents appear to be copied answers and of note is the high proportion of Hackney Carriage driver respondents from Chiltern). Drivers licensed in the Aylesbury Vale area are also likely to disagree but to a lesser extent. Drivers licensed in the South Bucks and Wycombe areas are both likely to agree with the proposal, particularly those from South Bucks.
- 5.5.12 Analysis of open comments received from respondents identified key themes that underpinned their agreement or disagreement with the Policy. These include:

- Concern over expense of low emission vehicles
- Change is good for the environment

Comments also indicate a degree of misunderstanding of the Policy requirements in 7% of responses and of the grandfather rights within the Policy for the existing licensed trade. Comments also show that respondents clearly link the emissions policy with the licensed vehicle age limits policy with cost being a significant concern. The consultation had a large response rate from the taxi trade (70%) and this may be why responses were less positive on this issue than those collected during the pre-engagement survey in September 2020. Within the September survey 71% of respondents stated that they felt it was important that licensed vehicles are environmentally friendly and 62% felt it was important that the Council provide incentives for electric vehicles (of note is the significantly higher resident response rate of 58% to the survey carried out in September 2020).

- 5.5.13 Whilst DfT guidance is that a vehicle age limit policy may not be appropriate, this guidance was produced some time ago (2010) and in this area may not reflect either the local Buckinghamshire picture or national picture. Historically the District Councils have operated age policies for licensed vehicles effectively and consider them a relevant and important factor in ensuring that standards of licensed vehicles are maintained for service users. Nationally there is some evidence that authorities who have removed vehicle age limits have then subsequently reintroduced them following reductions in the condition, appearance and tidiness of their licensed vehicles (Northampton Borough Council, Borough Council of Wellingborough, Cotswold District Council, and Reading Borough Council). Northampton Borough Council also cited concerns that proprietors of vehicles of a lower standard may choose to licence particular older vehicles with their authority because of the 'lighter touch policy', and that overall this may drive down the standard of vehicles available for users.
- 5.5.14 The importance of considering the climate change agenda when drafting and shaping local policy has increased significantly for Councils since 2010 when the DfT guidance on licensed vehicle age limits was produced. The Euro 5 and 6 standards were adopted by the European Commission to significantly reduce air polluting emissions from vehicles and provide long term planning security for vehicle manufacturers who wish to continue pursuing diesel technology. Euro 6 emission standards can achieve up to a 99 percent reduction in the emission of pollutants like fine particulate matter (PM2.5), reducing the risk of ischemic heart disease, lung cancer, stroke, and asthma (International Council on Clean Transportation; June 2016). Although there are fewer taxis on the road than private cars, they have a disproportionate impact on air quality. This is because they often operate in urban areas where there are lots of people and do a high number of miles. Taxi emissions impact on the health of local people, as well as taxi drivers who could be

exposed to poor air quality for 8-12 hours each day. Whilst it is accepted that the Council could choose not to have an age limit policy on licensed vehicles, evidence (which is supported by Buckinghamshire Council MOT testing results) clearly shows that older vehicles are more polluting and more likely to fail emissions tests and that taxis are more likely than other vehicles to fail emissions tests. Having reviewed the consultation responses and evidence on this issue it is considered that an age policy for vehicles that closely aligns to the Euro 5 and Euro 6 standards is likely to be the most comprehensive, robust and effective way of ensuring that the Council is working towards local and national commitments on climate change, particularly as at this time there remains some uncertainty around the longer term UK legislative Euro 5 and Euro 6 equivalent standards following Brexit. Alongside other environmental strategies, the licensed vehicle age limits and emissions policy will contribute to the Council reducing air pollution levels in Buckinghamshire.

5.6 **CCTV**

The new DfT standards for taxi and private hire vehicles advocate local consultation to determine whether CCTV would have a net positive or adverse impact on safety. Pre-engagement survey results (September 2020) show that 59% of responders felt that having CCTV installed in vehicles was extremely or fairly important with 24% indicating that it was neither important or unimportant to them. Consultation responses indicate that overall, respondents agreed with the proposal to mandate the installation of CCTV in licensed vehicles from April 2023 by 14.4% more than they disagreed with the proposal. When reviewed by respondent type whilst most groups agree with the proposal, hackney carriage drivers and private hire operators were in equal agreement and disagreement.

5.6.1 Analysis of open responses indicates that whilst a high level of respondents (49) feel that CCTV protects drivers and customers an equal amount (46) consider it poses a violation of privacy and raise concerns over the financial cost of installation (41). The LPHCA response states that they ‘totally oppose’ CCTV being a mandatory requirement for private hire vehicles’ and provide the following key reasons for this:

- Financial burden (upwards of £608 per vehicle for installation)
- Imposition of additional regulatory obligations on licence holders regarding data control
- Onerous on the driver in terms of decision making around the activation of the device
- Contingency plans for vehicle replacement

5.6.2 Having reviewed the consultation feedback the recommended approach is that the Policy will not mandate the installation of CCTV within licensed vehicles at this point in time. However the Policy will provide clear guidance to those within the

licensed trade who wish to use CCTV. Only 4% of local authorities currently mandate CCTV in licensed vehicles (DfT Taxi and Private Hire Vehicle Statistics 2019) although most allow it. The technology in this area continues to develop and this should positively influence the costs and choice associated with installation in the future. In considering this approach Officers have also been mindful of the cumulative impacts of Policy change on the licensed trade at this time. It is recommended that Licensing (Regulatory) Committee keep this matter under review and reconsider the mandate of CCTV at the 5 year Policy review point.

5.7 **English language:**

The DfT Statutory Standards require that all new drivers, and those who have not previously been tested, pass an English language test. The Policy requires that all taxi drivers must pass an English language test. From 12 months after the Policy implementation date (likely to be summer 2021), any existing drivers who have not previously taken the test will also be required to take and pass it. If they have not passed the test by this date, we will not be able to renew their licence until they have done so, unless they can demonstrate they meet the Council's required level of proficiency by way of approved qualification.

- 5.7.1 The Policy recognises the importance of English language skills, not only for identifying and reporting safeguarding concerns, but also because it facilitates good communication with passengers and officials. The ability to communicate in English can also help avoid confrontation and stressful situations, such as disputes over fares and misunderstanding over directions. In line with the recommended standard that changes to licensing requirements should be applied to all licence holders, and in recognition of the important role that English language plays in addressing safeguarding concerns, it is proposed that all licensed drivers undertake a formal English language assessment, using the approach currently adopted in the Aylesbury Vale area. This approach is detailed within the separate report on the implementation of the Statutory Standards provided to the Licensing (Regulatory) Committee.
- 5.7.2 Pre-engagement survey results (September 2020) indicate that respondents clearly feel it is important that taxi drivers can understand, speak and read English (92%). Consultation responses indicate that overall respondents disagree with the Policy requirement to pass an English language test with 8.5% more respondents in disagreement over those that agreed. Of note here is that the response rate from residents during pre-engagement in September 2020 was significantly higher (58%) than to the consultation in December 2020 when the majority of respondents are from the taxi trade (70%). When analysed by respondent type taxi trade organisations and business owners/representative (non-taxi industry) were the only

groups who were more likely to agree than disagree. Analysis of open responses indicates the most notable themes raised by respondents are:

- English is not an important factor in completing the job - communication requirements are limited
- Important for drivers and passengers to be able to communicate
- Experienced drivers should be exempt from testing

The LPHCA response states that they have ‘concern as to the final criteria for the assessment, the cost and strategic timing of implementing such a requirement’ and raises the following key points:

- That the Policy imposes an ill-timed fee burden given the Covid-19 pandemic
- That it does not specify exact parameters or qualification requirements or alternative qualifications which may already be held
- The proposal could lead to a shortage of supply of new drivers

5.7.3 Having reviewed the consultation responses it is clear that existing drivers who have not previously had to take and pass an English language test to enable them to hold a drivers licence are concerned that the introduction of a test may negatively impact them. Whilst the Council is able to deviate from the DfT Statutory Standards should it wish to do so, the Standards explicitly state that ‘The Department...expects these recommendations to be implemented unless there is a compelling local reason not to’. Given the importance of English language skills for identifying and reporting safeguarding concerns it is not considered that there is a compelling local reason not to implement this requirement.

5.7.4 Officers are committed to facilitating opportunities for drivers to practise and develop their English language skills once the Policy is adopted in order to limit impacts on drivers and on service users. This will include signposting to the Council’s Adult learning ESOL courses to those who do not have English as a first language as well as enabling drivers to take the test earlier than their licence renewal date should they wish to do so. The points raised by the LPHCA on parameters and alternative qualifications are relevant and have been addressed either within wording changes to the Policy (appendix 6) or within the separate report on the implementation of the Statutory Standards provided to the Licensing (Regulatory) Committee. Research undertaken as part of the review and benchmarking work underpinning the English language test requirement within the new Policy has indicated that the current pass level used by Aylesbury Vale could be reduced slightly while still achieving the safeguarding objectives. It is

anticipated with the additional training and slight reduction in test pass mark that the pass rate of existing drivers could be in the region of 75%. Drivers who are unsuccessful in passing the test will be directed to additional sources of support to help improve their English language skills. They will also have the opportunity to take further tests for which an additional cost will be incurred.

5.8 **Safeguarding training**

All drivers licensed by Buckinghamshire Council have undertaken exploitation safeguard training and it is an ongoing requirement for new drivers. The Policy requires that licence holders attend refresher training at least every three years. As criminal exploitation of children and vulnerable persons evolves and changes in nature overtime, it is important that those involved in the trade are regularly updated on developments and receive routine reminders on how to identify and report signs of abuse and exploitation. The Policy requirement also includes operators. Whilst this is not a recommended requirement of the statutory standards, operators can also play a key role in identifying and reporting safeguarding concerns at the point of booking.

Consultation responses indicate that most respondents (65%) agree with this proposal. Analysis of open questions indicates that the most notable themes raised by respondents are:

- Safeguarding is of high importance
- 3-year refresh is excessive and will be repetitive
- Ensure training is free of charge / time compensated

A small number of respondents (6) indicated that they felt that the training should be available online.

- 5.8.1 Having reviewed the consultation responses it is considered that the approach set down within the Policy as drafted supports the Council's public safety objectives and should be implemented. Taxi licensing operates on a cost recovery model and therefore the costs of providing this training will be factored into the licence fee for drivers and operators. Since the start of the Covid-19 pandemic training has been delivered online and it is likely that this and/or a hybrid model of face to face training will continue for the future, reducing the time commitment needed for drivers and operators to attend.

5.9 **Criminal convictions and unacceptable behaviour policy**

The LPHCA response states that they 'totally oppose an automatic refusal requirement for drivers with '7 or more penalty points on their DVLA licence'. Reasons given for this are:

- The proposal imposes an ill-timed unreasonable burden on the trade, given the Covid-19 pandemic
- The proposal will unfairly penalise individuals who receive penalty points, and can continue to drive by law, but lose the ability to work
- The proposal means 49% of current driving offence endorsements, whether minor or not, could result in loss of a licence for a single incident
- The proposal may prevent, or otherwise stall, the licensing of new drivers which could lead to “...shortages of supply...”

This LPHCA comment relates to ‘Other motoring offences’ within the Criminal Records and Unacceptable Behaviour Policy at appendix 4 which states:

A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

5.9.1 This requirement reflects the Institute of Licensing ‘Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades’ (April 2018) which provides authoritative guidelines to licensing authorities as to how they should make determinations about the safety and suitability of drivers and operators. The Guidance also aims to deliver consistency across local authorities by providing a degree of national uniformity and consistency, promoting confidence in the licensing regime. Officers continue to apply discretion when making licensing decisions by reviewing each case on its individual merits, referring to guidance but using their judgement to apply proportionate balance. However it is important that the Council adopts a robust and consistent framework within which they can operate when determining suitability.

5.9.2 Public safety must be the Council’s primary objective when licensing drivers. Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that a “council shall not grant a driver’s licence to drive a private hire vehicle or hackney carriage unless they are satisfied that an applicant is a fit and proper person”. There is no definition of this term within the legislation but the relevant case law states that:

*“those licensed to drive private hire vehicles are suitable persons to do so, **namely that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers**”*

McCool-v-Rushcliffe Borough Council (1998)

Another frequently applied test is whether a reasonable person, having access to all relevant information, would feel comfortable and confident allowing the applicant or driver to drive a close friend or relative.

5.9.3 A simple internet search illustrates that less than 7% of the overall number of licence holders in the UK have points on their DVLA licences (2019, <https://www.driving.co.uk/news/one-20-drivers-points-licence/>). Taking this into account it would not be 'normal' for the average person to have over 7 points on their DVLA driving licence and it is not considered that this Policy requirement for licensed drivers is unreasonable or should have a significant impact on the vast majority of the law abiding licensed taxi trade.

5.10 **Drug testing**

The Policy states that, where concerns are raised, the Council may require licence applicants or existing drivers to be tested for the unlawful use of drugs. The Council views the use of illegal drugs as completely incompatible with being fit and proper to hold a licence to drive members of the public. Consultation responses indicate that most respondents (78%) are in agreement with this approach and that all respondents, irrespective of type, are in agreement. Analysis of open responses indicates the most notable themes raised by respondents are:

- Agree this is a good idea
- Testing should be regular and random
- Only test when there is reason to do so

These comments support the approach detailed within the Policy.

5.11 **Tinted windows**

Although the online consultation did not ask a specific question about the Policy requirements for licensed vehicles with tinted windows this issue was raised by respondents within the open comments area of the consultation and directly with officers during meetings with the licensed trade and via direct correspondence. In addition the LPHCA response states that they totally oppose restrictions on the use of tinted window glass on licensed vehicles and provide the following key reasons for this:

- The proposal imposes an ill-timed, given the Covid-19 pandemic, unreasonable and unlimited costs burden of £600 to £4,000
- The proposal requires removal of manufacturer specified glass which may result in a reduction of the vehicles retail value

- The proposal negates the environmental benefits of retaining tinted glass (including, for example, heating / cooling vehicles)
- The proposal, in the absence of contrary evidence, is not supported by a correlation with crime prevention

5.11.1 Section 4.3, point 12 of the Policy states:

A minimum of 75% light must be transmitted through the front windscreen, 70% light is transmitted through any front passenger windows and a minimum of 60% light through all other glass (with the exception of rear quarter lights). Approved executive vehicles are exempted from this requirement.

Vehicles which were licensed by the Council before this requirement was introduced and which were not already subject to a policy on tinted windows will continue to be licensed until the end of the usual licence period (10 years for standard licences and 15 years for zero emission vehicles / prestigious vehicles / limousines) unless the tint is considered to be so dark that it would provide a significant risk to public safety i.e. where it is not possible to see passengers in the rear areas of the vehicle.

5.11.2 Currently the District Council policies all contain requirements on tinted windows but varying levels of light transmission are permitted. Taxi and private hire vehicles provide essential services to children and vulnerable adults, including to school, and the Council considers it essential for public safety and safeguarding purposes that it is possible to clearly see into both the front and rear of a licensed vehicle. Whilst the DfT Best Practice Guidance (2010) advises licensing authorities to consider the cost of replacing factory fitted tinted windows, when determining policy requirements, it is also important to consider that this guidance was published prior to a wider appreciation of the role that the taxi and private hire trade has played in the exploitation of children and other vulnerable persons. Evidence is cited in the Jay and Casey reports into child sexual exploitation in Rotherham as follows:

“There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers” (para 1.2).

This evidence underpins the DfT Statutory Standards which were published in July 2020 and state:

“There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers “ (para1.1).

Furthermore, locally we are developing a greater understanding and awareness of 'County Lines' type activity, where young persons are coerced into transporting illicit drugs, money and other items, often using taxi/private hire vehicles.

5.11.3 A benchmarking exercise of 56 licensing authorities carried out by officers in January 2021 found that:

- 45% had policy requirements equivalent to or more stringent than the Buckinghamshire Council Policy
- 39% had no policy in place and or/accepted manufacturer window tint specification for all licensed vehicles
- 16% had policy requirements less stringent than the Buckinghamshire Council Policy

5.11.4 Research carried out by officers in 2016 (revisited in 2021) on the level of light transmission provided by the manufacturer's specification windows of 13 commonly licensed vehicle makes and models shows that at the time of assessment of these only 1, the Toyota Prius Plus, would not meet the requirements specified within the Policy (Toyota have confirmed that the vehicle can be ordered with standard glass which allows 70% light transmission in the rear glass). Setting a tinted window policy provides the trade with clarity on requirements and allows them to purchase vehicles that will meet the specification. Officers will continue to consider each vehicle licence application on an individual basis and are mindful of the cost implications to applicants when making decisions. However it is important that the Council adopts a robust and consistent framework that supports the primary objective of protecting the public. Having considered the consultation responses and associated evidence and information the tinted window requirements within the Policy are considered reasonable, particularly given the grandfather rights provided for the existing licensed trade which will limit cost implications. Officers have made a change to the recommended Policy wording to exclude rear quarter lights (windows) from the requirement in response to feedback from the taxi trade that some vehicles that are otherwise compliant would not meet the tint specification.

5.12 **Policy wording changes**

Consultation raised a number of minor Policy wording amendments which have been considered and changes made where required. Details of all wording changes made to the Policy following consultation are attached as appendix 6 to this report.

5.13 **Open responses**

The consultation enabled respondents to provide the Council with any other comments they would like to make about the Policy. The purpose of this is to capture any insight which would be out of context to previous consultation

questions posed but relevant to the Policy proposal. 273 responses were received both within the online consultation and outside of this via direct communication with the Licensing Service. Analysis of these indicates that the most notable themes raised by respondents are as follows:

- Policy needs to be discussed/extended in the context of COVID-19
- Policy overall will put financial burden on drivers/operators
- Policy does not seem to be fair to taxi driver/operators - non-supportive policy

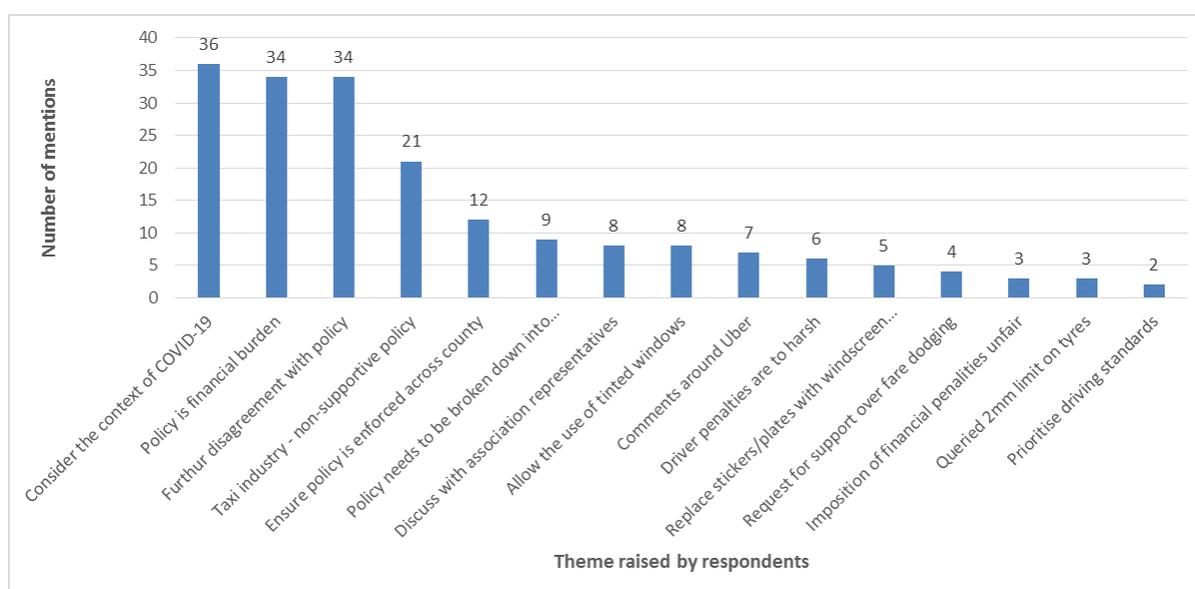
Respondents commented that:

“Any changes should not be considered or implemented until after COVID-19 and there is some sense of normality. We do not know the true extent of the damage COVID-19 has had on our trade and until we do it would be unfair for any changes to be made”

“Council should seek advice to make the policy which is cheap to follow for the drivers. Some changes proposed are nothing more than a sheer expense on the drivers”

“The policy seems very one sided, you have not taken into consideration the drivers or the impact on the trade, you are not about safeguarding the trade but merely adopting policies to close the door on current and new drivers. Its most frustrating that in already challenging times you have added the burden off additional costs on us, varying from CCTV to newer vehicles.”

The full breakdown of open responses is provided below:



5.13.1 Following requests from the taxi trade and the LPHCA the consultation period on the Policy was extended for a further 2 weeks providing an 8 week consultation

period in total. The Council is very mindful of the Covid-19 situation impacting businesses at the present time, including the taxi trade and have given this careful consideration when thinking about the adoption of a new Policy, but must balance this against the reasons for Policy change, and particularly the need to protect public safety. The DfT have been clear that there is an expectation that licensing authorities will implement the statutory standards and we must report to the DfT on progress with this in January 2021. Where the Policy makes changes that are not linked to the Statutory Standards (such as changes to vehicle age, an emissions policy, requirements for wheelchair accessible vehicles) grandfather rights have been provided to give the taxi trade time to prepare and plan for these changes but also in consideration of the current Covid-19 impacts felt by the taxi trade. The approval mechanisms and operational changes required to deliver the Policy change mean that, if approved, it will not come into effect until summer 2021 at the earliest and it is considered that by then the effects of the vaccination and testing programmes should provide support for business recovery. The Licensing Service has provided information on business grant support that may be available to operators throughout the Covid-19 pandemic and will continue to do so. In addition SEN school transport contracts have continued to operate throughout the pandemic providing some degree of certainty for the taxi trade engaged to deliver these. Case law judgments indicate that Licensing Committees should not take financial considerations into account when reaching taxi licence decisions and that the over-riding objective must be public safety. This is of relevance here and means that whilst the Council may be mindful of fee impacts on the taxi trade; this cannot take precedence in decision making.

5.13.2 The Policy if approved aims to deliver benefits in terms of improving public safety as well as ease of operation for the taxi trade. It is important that we balance the impacts of the proposed changes on those who may be negatively affected, with the improvements to public safety and the benefits to service users and the taxi trade that aligning licensing service provision will bring.

6. **Next steps and review**

- 24th February 2021 Report to Full Council to approve and adopt the new policy (should Licensing (Regulatory) Committee choose to recommend approval)
- March 2021 - fees and tariffs report to Licensing (Regulatory) Committee
- Date TBC - 28 day consultation on fees and tariffs
- Date TBC - Report back to Licensing (Regulatory) Committee on fees and tariffs consultation
- Date TBC (likely summer 2021) - Policy implementation.

6.1 In conjunction with the above, the Council will potentially need to consider other matters such as resolutions pertaining to Private Hire and Hackney Carriage licensing areas and the appointment of taxi ranks. The Licensing (Regulatory) Committee will continue to be advised on such matters.

7.0 **Key documents:**

DfT Taxi and Private Hire Vehicle Licensing: best practice 2010

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

- **Other options considered**

There are no specific statutory time scales imposed on the Council to align taxi and private hire licensing policies. Maintaining and applying four different policies however is burdensome on the trade, Council Members and Officers. The adoption of a new policy, for the new Council area, presents a timely opportunity to review best practice and adopt the highest standards for Buckinghamshire's taxi and private hire trade.

- **Legal and financial implications**

The new statutory standards now mandate the provision of a taxi and private hire licensing policy document. A written policy document helps assist decision making and provides safeguards against legal challenge.

The additional costs of drafting the new policy have been met by funds allocated to the transformation work streams prior to vesting day. There may be future cost implications to the Council from new policy requirements, however any additional costs incurred or savings made will be reflected in future adjustments to fee levels. The Council is legally obliged to ensure licence fee levels are set on a cost recovery basis.

- **Corporate implications**

- Protecting the vulnerable – taxi and private hire vehicles play a valuable role in transporting vulnerable members of the community such as children and those with physical disabilities. Many children, including those with special educational needs, rely on taxis and private hire vehicles for school transport. This policy review presents an opportunity to ensure that the required standards of the Council's Client Transport Services and private hire and taxi licensing are aligned. The policy also allows the Council to set out its

expectations in terms of vehicle requirements, including accessibility requirements.

- Property – there are implications for the Council in respect of testing arrangements for vehicles. The Council is able to determine the frequency, manner and location of vehicle testing. Presently this varies between areas as to whether these tests are performed at Council or external facilities. A Council review is ongoing and various options are being explored, which includes the potential use of the new Pembroke Road facility for increased vehicle testing.
- HR – N/A
- Climate change – measures to encourage the use of low emission vehicles have been considered in the new policy.
- Sustainability – the provision of public transport reduces the need for car ownership. A policy that promotes higher quality transport options is more likely to be desirable to passengers and further reduce the need for vehicle ownership.
- Equality – a full equalities impact assessment has been carried out and accompanies this report (appendix 7)
- Data – a review of the existing data protection policies in place is required ahead of implementation and is now in process.
- Value for money – a unified policy reduces financial burdens on the Council with savings in Member and Officer time: consultations, committee meetings, enforcement and application processing. There are savings in advertising costs of statutory public notices required for changes to fees and hackney carriage fares. The trade benefit with one licensing regime for the whole Council area, rather than up to four under the current arrangements.