

Committee:	Licensing and Environmental Health	Date:
Title:	Review of Uttlesford District Council's Taxi Licensing Policies	20 th March 2019
Report Author:	Oliver Rawlings, Licensing Consultant (EHDC Service Manager – Licensing & Enforcement)	Item for decision: Yes

Summary

1. To inform the Committee of the consultation responses to the proposed changes to UDC Taxi Licensing Policies and seek endorsement of final documents for recommendation to Council for adoption.

Recommendations

2. For the Committee to note and comment upon the consultation responses and endorse the proposals to introduce training and testing for new applicants for both all drivers licences.
3. For the Committee to note and comment upon the consultation responses and endorse the proposals to introduce an update course for existing drivers licence holders at renewal.
4. For the Committee to note and comment upon the consultation responses and endorse the proposal (as amended) for the introduction of a Suitability Policy for applicants in the Hackney Carriage and Private Hire Trade.
5. For the Committee to note and comment upon the consultation responses and endorse the proposal for the introduction of a driving proficiency test for all new applicants all drivers licences.
6. For the Committee to note and comment upon the consultation responses and endorse the proposal (as amended) for the introduction of a new vehicle emissions policy which will apply to all licensed vehicles.
7. For the Committee to note and comment upon the consultation responses and endorse the proposal (as amended) for revised:
 - a) vehicle standards; and
 - b) vehicle licence conditions; and
 - c) driver licence conditions; and
 - d) Operator licence conditions.
8. That the above proposals and documents be endorsed and recommended for approval by Council.

Financial Implications

9. There are no financial implications as the implementation and operation of the taxi licensing regime operates on a cost recovery basis except for the enforcement and compliance costs relating to drivers and operators.

Background Papers

10. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - Taxi and Private Hire Licensing: Best Practice Guidance from the Department for Transport (March 2010)¹
 - Taxi and Private Hire Vehicle Licensing: Protecting Users: Statutory Guidance for Licensing Authorities (currently being consulted upon)²
 - Law Commission in its report on Taxi and Private Hire Services³
 - Local Government (Miscellaneous Provisions) Act 1976⁴
 - Institute of Licensing, Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade⁵
 - Report of the Taxi Task and Finish Group on taxi and Private Hire Vehicle Licensing and the Government response to that report from February 2019⁶
 - Report and Minutes of the Licensing & Environmental Health Committee on 27th November 2018⁷

¹ <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>

² <https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-licensing-protecting-users>

³ http://www.lawcom.gov.uk/app/uploads/2015/03/lc347_taxi-and-private-hire-services.pdf

⁴ <https://www.legislation.gov.uk/ukpga/1976/57>

⁵ [https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775983/taxi-task-and-finish-gov-reponse.pdf

⁷ <https://uttlesford.moderngov.co.uk/ieListDocuments.aspx?CId=140&MIId=4163>

Impact

11.

Communication/ Consultation	Consultation took place with licensed trade and other relevant stakeholders for an 8 week period. Local press, social media, website, meetings and invitation for direct comment were used as appropriate.
Community Safety	The authority has a duty only to licence drivers and operators who are considered to be fit and proper.
Equalities	The Council ensures that it treats all individuals and organisations that are renewing or making new applications for licences with equal respect both during the licensing approval / renewal process and in such instances where enforcement action becomes necessary.
Health and Safety	No impact on employee health and safety
Human Rights/ Legal Implications	<p>Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:</p> <p>Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.</p> <p>Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.</p> <p>2. The Local Government (Miscellaneous Provisions) Act 1976, allows a Local Authority to determine the suitability of an applicant for the grant of taxi and private hire vehicle Licenses and to request such information as it considers reasonably necessary from the applicant in order to determine if a licence should be granted/revoked.</p>
Sustainability	No issues arising
Ward-specific impacts	All
Workforce/ Workplace	No issues arising

Situation

12. Uttlesford District Council, as an authority that issues hackney carriage and private hire drivers licences, can set its own criteria to ensure that applicants are 'fit and proper' to hold a licence. The overriding factor is that of the protection and wellbeing of the public using Hackney Carriage and Private Hire Services.
13. Draft proposals were approved for consultation on 27th November 2018 and an 8 week public consultation was commenced and closed at midnight on 30th January 2019. During the consultation period two meetings were held with ULODA to allow the proposals to be discussed before they formally submitted a consultation response.
14. During the consultation 10 responses were received.
15. Each response is summarised below with comment confirming if officers considered amendments to the proposals are appropriate as a result. Each appendix contains the consultee's response and the subsequent officer response.
16. Response 1 (Appendix 'A')
17. This response from a UDC licensed private hire operator objected to every point of the proposals and made a number of references to Uber. The respondent finished the response by stating that he would move his operation to another area if the proposals were to be implemented.
18. The officer response addressed the comments regarding Uber although they were not directly relevant to the consultation. The reasons for the proposals were put forward and it was explained that it is not UDC's intention to force any existing driver or operator out of business. The response went further and explained that other areas having lower standards and costs are not valid reasons for UDC to not put measures in place to ensure public safety and the highest standards.
19. The respondent was asked if he would like to suggest any amendments to the proposals so that might mitigate the concerns raised so that they could be considered.
20. Response 2 (Appendix 'B')
21. This comprehensive response from a licensed driver and hackney carriage proprietor addressed ten separate points.
 - 1) The first point addressed a number of separate issues including how the consultation should have been conducted and issues around enforcement which do not form part of the current proposals.
 - 2) In the second point the respondent expresses support for the proposal to introduce training and assessments for new applicants.

- 3) The third point questions the need for the introduction of an update course for existing licence holders.
- 4) Point four supports the introduction of a suitability policy and states that it is long overdue as Uttlesford has been open to anyone to obtain a cheap licence during the “compensation years”.
- 5) Point five appears to object to the introduction of a driving proficiency test. The respondent’s suggestion that the test should only be imposed on existing drivers if their driving proficiency is brought into question actually reflects the proposal that was made.
- 6) Point six objects to the proposed age and emissions policy as it would impose a financial burden on the trade.
- 7) Point seven states that amendments to conditions and standards should be done in consultation with the trade.
- 8) Point eight suggests that early engagement with the trade should have been undertaken before the 8 week consultation commenced.
- 9) Point nine suggests that the proposals are “window dressing to justify the trade being burdened with the high cost”.
- 10) Point ten states that many of the documents referenced in the report need urgently updating.

22. The officer response dealt with all the points made and further explained the reasons behind the proposals. It also clarified the point regarding the driving proficiency test and explained that the proposed Vehicle Age & Emissions policy had been amended following consultation with the trade and this should lessen the potential financial impact on the trade.

23. The respondent’s final point is endorsed by officers as much of the guidance and legislation relating to taxis urgently needs updating. Since the receipt of this response the Government have issued their response to the taxi task and finish group and the DfT have started a consultation on new draft Guidance.

24. Response 3 (Appendix ‘C’)

25. This response, received from a UDC licensed private hire operator, stated that it strongly disagreed with the actions being taken with regard to the proposals. Reference is made to the need to enforce the current rules.

26. The submission suggests that if the proposals go ahead then a percentage of the licensed trade in Uttlesford would disappear and that as well as deterring new driver’s the proposals would burden existing drivers.

27. The officer response explains that the actual impact on the trade is likely to be less than the perceived impact, particularly in relation to existing drivers, and that this point has been considered when drafting the proposals.

28. The need to review policies before complaints are received, at which point changes would be too late to protect those affected, is explained. Clarity regarding the changes to the differentiation between the standards for school vehicles versus vehicles doing other private hire work is given.

29. Response 4 (Appendix 'D')

30. The fourth response was received from a National Leader of Education for children with special education needs and disabilities. The response was received both directly from the respondent and forwarded by an UDC licensed private hire operator.
31. The respondent's concerns were with regard to the impact of the proposals on school transport for children with special education needs and/or disabilities. The respondent raised questions regarding the type of disability training that would be provided and if it would include the needs of passengers with cognition difficulties.
32. The respondent detailed seven points that he wished the authority to give further consideration.
33. In the officer response an attempt was made to reassure the respondent that both visible and non-visible (cognition) disabilities would be covered as part of the disability awareness training.
34. The response went into considerable detail regarding the differing standards of training offered both by education authorities and operators themselves. This included excerpts from a consultation response received from the Integrated Passenger Transport Unit at Essex County Council supporting the new training and the belief that it would improve standards.
35. Each of the points raised by the respondent received further consideration as detailed in the response.

36. Response 5 (Appendix 'E')

37. The fifth response to the consultation was submitted by the Uttlesford Licensed Operators & Drivers Association (ULODA). Before the submission of this response two meetings had been held between officers and ULODA so that the proposals could be discussed in detail.
38. The detailed response from ULODA extended to 5 pages and covered a number of points in relation to the wording of the report, the references to bench marking and the details of the actual proposals.
39. The response brought up the matter of whether UDC would agree to issue limited 'school contracts only' driver and vehicle licences which had not formed part of the proposals. Much of the discussion with the trade prior to the submission of ULODA's response was in relation to this point. The trade requested UDC to consider this option and having given it due consideration the authority decided that it would not issue such licences for the reasons given in the responses.

40. The officer response sought to address each point in turn and referenced amendments to the following proposals which would be made as a result of consideration of all the responses:
- 1) Removal of the requirement for an applicant for a drivers licence to be at least 21 years of age;
 - 2) Removal of the age criteria from the Vehicle Age & Emission policy;
 - 3) Removal of the minimum engine power output figure from the vehicle standards;
 - 4) The adding of E7 vehicles to the types of vehicle that would ordinarily be licensed.
41. The response recognised ULODA's commitment to best practice in education and training and welcomed the trade's engagement, both before and during the consultation, which has helped to shape the final proposals before the Licensing & Environmental Health Committee.
42. Response 6 (Appendix 'F')
43. This response consisted of an email from Roland Pelly (Pellys Transport & Regulatory Law) forwarded by a UDC licensed private hire operator. The respondent had sought Mr Pelly's opinion on the proposals being consulted upon but then additionally submitted a second separate response.
44. The issues raised in this response included a suggestion of delaying any action until the Government's response to the Task and Finish Group report on Taxi and Private Hire Vehicle Licensing was published, the issuing of a 'restricted' private hire licence, the proposal for a minimum age limit for drivers licence applicants and concerns over the tendering process for the training provider.
45. The officer response dealt with the reasons that UDC had decided that a delay would be inappropriate and referenced the recently published Government response to the Task and Finish Group report.
46. For openness the matter of 'restricted' licences was addressed regardless of the fact that this had not formed part of the consultation.
47. Officers appreciated the concern shown for the legality of any decision regarding a supplier for the training courses, if ultimately approved. Confirmation was given that the concerns were unfounded and that UDC would comply with any legal requirements going forward.
48. It was confirmed that the proposal to implement a minimum age for drivers licence applicants had been removed.
49. The respondent's second submission also proposed that the action being taken by UDC should be delayed. It referenced the need for the Government to update its Best Practice Guidance.

50. The respondent stated that the proposals will be grossly unfair to small one man operations and that UDC had made a huge overestimation of the capacity of the larger operators. The proposals are referred to as barriers to recruitment and detrimental to retention risking the viability of Uttlesford Operator's.
51. The perceived impact on the users of taxis in Uttlesford and the factors affecting the general trade are examined. Finally the respondent asks that the Committee reviews the proposals with greater caution than perhaps they did before.
52. The officer response starts by dealing with the request to delay action and references that both the Governments Response to the Task and Finish Group Report and the draft revised DfT guidance have now been published and the proposal had been reviewed in light of this.
53. Although separate to the proposals in the consultation the comments raised about increased fees were addressed for clarity.
54. Each of the matters detailed by the respondent were addressed in the response and he was offered assurance that the members of the Licensing & Environmental Health Committee would see all the responses and give them careful consideration.
55. Response 7 (Appendix 'G')
56. The respondent, a UDC private hire operator's licence holder, started by saying that after careful consideration and having read all the proposals that he agrees with a lot especially the training for new drivers.
57. The response raises concerns about the increase costs to the trade who are already stretched. The respondent specifically references the proposed vehicle age & emission policy and the impact that may have on the trade due to the cost of newer vehicles.
58. The point is made that what may work in the city often does not work in rural areas.
59. The officer response thanks the respondent for his support and references changes that have been made to the proposed vehicle age and emissions policy in light of the consultation responses. Assurance is also given that in formulating the proposals the particular circumstances within Uttlesford had been taken into consideration.
60. Response 8 (Appendix 'H')
61. The eighth response was received from Integrated Passenger Transport Unit at Essex County Council. They stated that comments had been made to them regarding the possible impact on driver recruitment due to the cost of the

proposed training but in response they felt that the training would drive an improvement in standards.

62. In addition comments were made that that the suggested new training is a really positive step forward as it includes CSE and safeguarding. The suitability guidance was welcomed as they considered it provides some clear standards related to how to assess offences.
63. The response identified an issue around drivers failing to report if they are the subject of any investigation or where concerns about their private life arise which may impact on their suitability. There is reference to a number of cases where drivers have failed to notify of a current investigation which brings the honesty and integrity of those individuals into question.
64. Support was given to the emissions policy as Essex County Council is also making efforts to reduce vehicle emissions countywide.
65. The final comment was that it was felt that the taxi policy review is suggesting a very positive way forward.
66. The officer response thanked the Integrated Passenger Transport Unit for its support and shared the link for the consultation on the DfT's draft statutory guidance so that they could respond to the consultation if they wished.
67. Response 9 (Appendix 'I')
68. Response nine was submitted by a UDC licensed private hire operator and consisted of a letter from James Button of James Button & Co., solicitors. This submission dealt with the matter of where a private hire operator could be licensed and whether UDC should issue 'restricted' school contract only private hire licences.
69. Neither of these matters form part of the proposed changes in the consultation but had arisen during discussions with the trade and the respondent had sought Mr Button's opinion.
70. As the first point of the response was not in dispute the officer response addressed the matter of restricted licences. The reasons why the authority had decided, after careful consideration and legal advice, not to issue a 'schools only' restricted licence were explained. Leading Counsel has confirmed that the policy reasons for the decision are sound and would be upheld if challenged.
71. It is agreed that UDC do issue a restricted licence for mechanics to allow them to lawfully carry out road tests of licensed vehicles. The difference between this licence and a 'schools only' restricted licence are clearly explained.
72. Response 10 (Appendix 'J')

73. The tenth response received was a further letter from James Button, this time examining the proposals, forwarded by the same private hire operator as response 9.

74. This 5 page response dealt with the content of the report put before the Licensing & Environmental Health Committee on 27th November 2018 and the proposals contained within it.

75. Many of the observations within the letter regarded the wording of the report rather than directly commenting on the proposals. The officer response sought to answer every point and offer clarification where necessary.

76. Where a point raised was considered valid this was acknowledged in the response and any amendments suggested to the draft proposals were included.

77. Referenced in the response were the following amendments to the proposals:

- 1) Suitability policy to be abridged to start from paragraph 4.19 of the original draft;
- 2) Age and Emissions policy amended by removing the age criteria;
- 3) E7 vehicles added to the list of vehicles the authority will licence;
- 4) For clarity the wording in relation to left hand drive vehicles to be amended;
- 5) Removal of condition 11 and 12 from the proposed Operator conditions;
- 6) For clarity the wording of parts of condition 2 of the proposed operator conditions to be amended;
- 7) Reference to 'employees' in the proposed operators conditions changed to 'all persons';
- 8) The period of time an operator has to produce records when requested extended to 24 hours;
- 9) Reference to 'shorts' removed from condition 2 of the proposed driver conditions;
- 10) For clarity the wording of condition 21 of the proposed drive conditions to be amended;

78. Implementing changes to licensing policy and requirements

79. When considering implementation dates for all the proposals UDC has considered paragraph 2.29 of the DfT's Draft Statutory Guidance for Licensing Authorities, Taxi and Private Hire Vehicle Licensing: Protecting users.

80. Paragraph 2.29 states:

It is important to remember that any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet

the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

81. A full copy of the DfT's Draft Statutory Guidance for Licensing Authorities can be found at Appendix 'K'.

82. New driver training and testing

83. Having considered all of the responses received during the consultation period officers are not proposing any amendments to the proposal to introduce training testing for all new applicants for driver's licences.

84. The comments from some sections of the trade regarding the possible impact on the availability of new drivers are balanced out by other sections of the trade who responded welcoming the change. Similarly the new training was welcome by Integrated Passenger Transport Unit at Essex County Council.

85. Members are asked to endorse the proposal to implement the driver training and testing as proposed in the report put before them on the 27th November 2018 and summarised at Appendix 'L'.

86. If the proposal is subsequently approved by Council the implementation will take place within 6 months of that decision to allow officers to contract a supplier, finalise the content and book suitable venues.

87. Update course for existing licensed drivers

88. Having considered all of the responses received during the consultation period officers are not proposing any amendments to the proposal to introduce an update course for existing licensed drivers at renewal.

89. The objections to the course were regarding its cost and content. Officer's believe that the approximate financial or time cost to a driver, which is likely to be less than £20.00 per year, when divided over the life of a licence, and one day in three years, does not outweigh the benefits to public safety. The course content would be bespoke to Uttlesford and reviewed regularly for its relevance.

90. Members are asked to endorse the proposal to implement the update course as proposed in the report put before them on the 27th November 2018. Such training to be completed by licensed drivers before the renewal of their driver's licence is granted and the course content to be initially made up of elements of the New Driver training detailed in Appendix 'K'.

91. The implementation will take place within 12 months of the decision being approved by Council to allow officers to obtain a supplier, finalise the content and book suitable venues.

92. Suitability policy for the Hackney Carriage and Private Hire Trade

93. Following consideration of all the consultation responses the draft Suitability policy has been amended in line with the suggestion of James Button in response 10. This has resulted in a shorter and more succinct document which will allow all stakeholders to understand how UDC will assess fitness and propriety to hold a licence.

94. Since the consultation commenced the DfT have opened a consultation on new draft guidance and this includes at Annex A is guidance on how previous convictions should be viewed. The proposed draft suitability policy reflects the wording in the guidance which the guidance states should be the minimum standards for the grant of a new or renewed licence.

95. Members are asked to endorse the proposal to implement the Suitability policy as amended at Appendix 'M'.

96. It's proposed that the Suitability policy would take effect from 1st May 2019 if approved by Council on 2nd April 2019.

97. Driving Proficiency.

98. Following consideration of all the consultation responses officers are not suggesting any amendments to the proposal to implement a driving proficiency test for new applicants and for those existing drivers whose driving ability has been brought into question. In addition new applicants to be required to have held a full UK drivers licence (or equivalent) for a minimum of three years at the time of application.

99. Members are asked to endorse the proposal to implement the driving proficiency tests as detailed at Appendix 'N'.

100. If Members are minded not to require existing drivers to undertake a driving proficiency test after acquiring 9 penalty points on their DVLA licence then the Suitability Policy will need to be amended to reflect this and that amendment should be endorsed by Members.

101. Requiring applicants to take this higher standard of driving test will provide the authority more assurance that the individuals they licence are fit to drive the public rather than relying on a licence that may have been obtained decades before or in another country.

102. The proposed implementation date for the driving proficiency test is 1st June 2019 to allow the authority to approve suitable providers with enough capacity to service the likely demand.

103. Vehicle Emissions Policy

104. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed Vehicle Age & Emissions policy:
- 1) Removal of the age criteria leaving only the emissions criteria; and
 - 2) The implementation dates to be moved back by one year.
105. A number of the consultation responses referenced the potential financial impact on the trade of this policy. The original report addressed these concerns at an early stage but further consideration has been given to the submissions.
106. Officers feel that the two suggested amendments above further mitigate any potential impact on the trade although, as with all policies, the impact on certain individuals can never be mitigated completely.
107. Members are asked to endorse the amended Vehicle Emissions policy detailed at Appendix 'O'. Implementation dates to be as detailed in the policy.
108. Licensing standards for Hackney Carriage and Private Hire vehicles
109. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed vehicle standards:
- 1) The addition of E7 vehicles to the types of vehicles that will be licensed;
 - 2) The removal of the minimum engine power output figure;
 - 3) The addition of further qualification for the reasons for not licensing left hand drive vehicles.
110. Members are asked to endorse the amended vehicle standards detailed at Appendix 'P'. Implementation date to be 1st May 2019.
111. Conditions for vehicle licences
112. Following consideration of all the consultation responses officers are not suggesting any amendments to the originally proposed vehicle conditions.
113. Members are asked to endorse the amended vehicle licence conditions detailed at Appendix 'Q'. Implementation date to be 1st May 2019.
114. Conditions for drivers licences
115. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed driver conditions:
- 1) Removal of the reference to 'shorts' from the list of clothing deemed unacceptable;
 - 2) Rewording of condition 21 to reflect that drivers should take the shortest route to a given destination unless otherwise agreed by the customer.

116. Members are asked to endorse the amended driver licence conditions detailed at Appendix 'R'. Implementation date to be 1st May 2019.

117. Conditions for operator licences

118. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed private hire operator conditions:

- 1) Revised wording of condition 2.c to make it clear that this is not an exhaustive list of how bookings can be made;
- 2) Revised wording to condition 3 changing the period in which records must be produced from 12 hours to 24 hours;
- 3) Revised wording to condition 10. The word 'employees' replaced by the term 'all persons'.
- 4) Removal of conditions 11 & 12, requiring operators to provide information quarterly and the amendments of the original conditions 10 & 13 (the decision regarding the amendment of conditions 10 & 13 was taken following a meeting with the trade representatives on 01/03/2018 so had not been referenced in responses given before that date).

119. Members are asked to endorse the amended private hire operator's licence conditions detailed at Appendix 'S'. Implementation date to be 1st May 2019.

Risk Analysis

120.

Risk	Likelihood	Impact	Mitigating actions
3 An unsuitable person may be granted a driver, vehicle or operator licence.	The revision to the policies and procedures will minimise the likelihood of this occurrence by ensuring an effective and robust licensing regime adequately supported by appropriate enforcement.	Amending UDC's taxi licensing policies will promote public safety which is the core purpose of this licensing regime	Members endorse the changes and updates to current UDC policy and procedures.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.