

Licensing Committee

at 6.30pm on Tuesday, 19th September 2017
in the Belle Vue Suite at the Belle Vue Square Offices, Skipton

Committee Members : The Chairman (Councillor Myers) and Councillors Baxandall, Graham, Heseltine, Ireton, Jaquin, Madeley, Moorby, Mulligan, Solloway, Thompson and Welch.

AGENDA

1. Apologies for absence
2. Confirmation of Minutes of meeting held on 13th June 2017.
3. Public Participation - In the event that any questions/statements are received or members of the public attend, the public participation session will proceed for a period of up to fifteen minutes.
4. Declarations of Interest – All Members are invited to declare at this point any interests they have in items appearing on this agenda, including the nature of those interests.

(Note: Declarations should be in the form of:

a “**disclosable pecuniary interest**” under Appendix A to the Council’s Code of Conduct, or “**other interests**” under Appendix B or under Paragraph 15 where a matter arises at the meeting which relates to a financial interest of a friend, relative or close associate.

A Member of Council who has a disclosable pecuniary interest must leave the room and not take part in the discussion or vote. When declaring interests under Appendix B or Paragraph 15 of the Code, Members must move to the public seating area, not vote, and speak only if members of the public are also allowed to speak at the meeting.)

5. Revision of Taxi Licensing Policy - Report of the Licensing Manager. Attached.

Purpose of Report – This report seeks to bring the results of the consultation on the revision of the taxi licensing policy back to Members for discussion.

6. Review of Taxi Fares – Report of the Licensing Solicitor. Attached.

Purpose of Report – On 24th July 2017 a request was received from a taxi proprietor for the fares applicable to Hackney Carriage to be reviewed to include a further charge that can be applied to journeys which take place within Craven in certain circumstances.

7. National Licensing Matters - Legal Update – Report by the Licensing Solicitor. Attached.

Purpose of Report – To provide Members with a general update on national licencing matters as follows:

Appendix A : Taxi and Private Hire Working Group briefing note.

Appendix B : Gambling Commission report.

Appendix C : Challenge to Intended Use Policy briefing note.

Appendix D : Competition and Markets Authority Guidance briefing note.

Appendix E : Hemmings case briefing note.

8. Any other items which the Chairman decides are urgent in accordance with Section 100B(4) of the Local Government Act, 1972.

Agenda Contact Officer: Vicky Davies, Committee Administrator
Tel. 01756 706486 e-mail committees@cravendc.gov.uk
11th September 2017.

Emergency Evacuation Procedure

In case of an emergency or if the alarm sounds, leave the committee room and leave the building using the nearest available door. The assembly point is in the main square at the front entrance. An officer will take a roll call at that point. Please do not leave without telling the Chairman or the Democratic Services Section's representative.

LICENSING COMMITTEE

13th June 2017

Present – Councillors Heseltine, Ireton, Jaquin, Madeley, Moorby, Myers and Thompson.

Officers – Solicitor, Licensing Manager and Committee Administrator.

Apologies for absence were received from Councillors Baxandall, Mulligan, Solloway.

Start: 6.30pm

Finish: 8:15pm

The minutes of the Committee's meeting held on 21st March 2017 were confirmed and signed by the Chairman.

Minutes for Report

LIC.193

REVISION OF TAXI LICENSING POLICY

The Licensing Manager submitted a report seeking Members' approval to formally consult on a proposed taxi licensing policy and an adequate timeframe for the duration of the consultation.

Whilst the Council had a number of policies and conditions relating to taxi licensing, last reviewed in November 2012, these were not contained in one formal document. The revised policies would reflect legislative changes and ensure that as a Licensing Authority, Craven could be confident that, along with improved partnership working with agencies such as the Police and Safeguarding, the introduction of strengthened conditions and policies were robust and fit for purpose.

The Licensing Manager stated that, during the consultation process, she wanted to engage with as many people as possible, including the trade, relevant agencies and organisations and other interested parties including members of the public.

The main changes highlighted in the report were:

- More robust policy in relation to the relevance of previous convictions and other relevant information;
- Update Private Hire Drivers' conditions;
- Update Hackney Carriage Drivers' Code of Conduct;
- A new Code of Conduct when working with vulnerable passengers;
- To seek a driver dress code;
- Medicals to be brought into line with DVLA;
- DBS checks to be brought into line with expiry of the licence rather than part way through a licence;
- Relevant qualifications to be evidenced;
- CSE Awareness Training;
- Introduce specifications to help with compliance when purchasing Hackney Carriage and Private Hire Vehicles;
- Introduce a tougher requirement for tyres such as tyre depth;
- Introduce a technical specification for cameras in taxis; and
- Points based enforcement scheme.

Members were asked to comment and discuss the draft policy and after a lengthy debate, it was

Resolved – (1) That, the Licensing Manager is instructed to formally consult on the draft Taxi Licensing Policy.

(2) That, the timeframe, as set out in report now submitted, is approved and that a further report is brought back to this Committee in order to consider any representations received and whether amendments should be made to the policy in light of any representations received.

LIC.194 **TERMS OF REFERENCE AND OFFICER SCHEME OF DELEGATION**

The Licensing Solicitor submitted a report asking Members to consider the Terms of Reference for the Licensing and Appeals Sub-Committee and make associated amendments to the Officer Scheme of Delegation.

The current Scheme of Delegation made it difficult for the Licensing Authority to act quickly when information was received that called in question whether a driver remained to be 'fit and proper'. To speed up the process, the report suggested that delegated authority was given to the Chief Executive to refuse such applications with a corresponding right of appeal to the Licensing and Appeals Sub-Committee. This would not affect the statutory right to further appeal to the Magistrates' Court.

In addition, in order to assist officers in setting up Sub Committees promptly and efficiently, it was proposed that the membership of a particular Sub Committee was selected from Members of the Licensing Committee in rolling alphabetical order of surname. This should result in the Sub Committees being shared equally between Members.

The Chairman asked Members for their views and after a discussion it was

Resolved – (1) That, the recommendation to amend the officer Scheme of Delegation to grant authority to the Chief Executive to authorise suspension and revocation of Hackney Carriage and Private Hire Drivers, Vehicles and Operators licences is not approved.

(2) That, the recommendation to amend the Licensing and Appeals Sub Committee Terms of Reference to hear informal appeals against decisions to refuse applications, suspend or revoke licences is not approved.

(3) That, the introduction of a system of appointment to a Licensing and Appeals Sub Committee by way of a rolling alphabetical list of Members of the Licensing Committee is not approved.

Chairman.

Licensing Committee – 19 September 2017



REVISION OF TAXI LICENSING POLICY

Report of the Licensing Manager

Ward(s) affected: All

1. **Purpose of Report** – This report seeks to bring the results of the consultation on the revision of the taxi licensing policy back to Members for discussion.
2. **Recommendations** – Members are recommended to:
 - 2.1 Review the comments received as a result of the public consultation exercise and
 - 2.2 Note the timetable for the progress of the policy.
3. **Report**
 - 3.1 On 19 June 2017 members approved the timetable below for a consultation exercise to be undertaken on a revised taxi licensing policy:-

Consultation period – 1 July 2017 to 2 September 2017

Policy and results of consultation to be brought back to Licensing Committee – 19 September 2017
 - 3.2 On 10 July 2017 the Licensing Manager wrote to all licence holders as well as stakeholders and other interested parties that may be affected by any proposed changes. The letter is attached at Appendix A as well as a list of stakeholders that were written to individually. We also wrote to other Licensing Authorities.
 - 3.3 A press release was issued and was published in the Craven Herald and reported on the Institute Licensing website. The consultation was also placed on the main page of the Council Website.
 - 3.4 On 24 and 25 July 2017 open days were held for people to come and view the documentation and ask questions of officers. The full document was also available to view at Reception at Belle Vue Square. Where requested hard copies were also sent out via email or by post.
 - 3.5 The consultation closed on 2 September 2017 and a total of 14 responses were received. These are attached at Appendix B in a table. At Appendix C is a response received from the National Private Hire Association.

3.6 It was originally envisaged that the amended Policy could be brought to this Licensing Committee however, in light of the public interest in this Policy and nature of the responses it is considered appropriate to bring the responses to Members for guidance on any necessary amendments to the Policy. Members are therefore asked to consider these responses and in the context of the overarching need to change policy and make the licensing regime much more robust in order to protect the travelling public decide whether the policy and conditions should be amended in any way to reflect the concerns raised. The amendments proposed by Licensing Committee will then be incorporated into the Policy and the revised draft Policy will be presented to the next Licensing Committee following consultation with legal and checking the Policy for consistency.

3.7 The proposed revised timetable for implementation of the Policy is as follows;

Licensing Committee to receive draft Policy (amended as appropriate) 12 December 2017

Policy presented to Council for approval 30 January 2017

Policy implemented 1 April 2018

Implications

4.1 **Financial Implications** – Any changes to policy and conditions may result in a positive financial impact on licence holders and applicants as well as a perceived negative impact.

4.2 **Legal Implications** – Any changes made to Policies and conditions of licence could be challenged in Court by an aggrieved party. The Council has a duty to consider (but not necessarily agree with) consultation responses in formulating Licensing Policy.

4.3 **Contribution to Corporate Priorities** – Promoting the wellbeing of Craven's communities

4.4 **Risk Management** – Criticism from the trade about the changes and how it may affect their livelihoods etc. Support from partner agencies including the Police about increasing the standards of taxis permitted in Craven.

4.5 **Equality Impact Assessment** – The Council's Equality Impact Assessment Procedure will be carried out as part of the consultation process.

5. **Consultations with Others** – Consultation has taken place with a wide variety of stakeholders who may be affected with changes to policy.

6. **Access to Information : Background Documents** – Draft Revised Taxi Licensing Policy

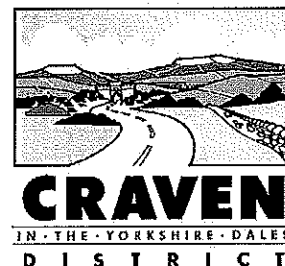
7. **Author of the Report** – Deborah Bragg – Licensing Manager 01756 706343

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Appendices – Appendix A – Consultation Letter
 Appendix B – Table of Responses to Consultation
 Appendix C – Response from National Private Hire and Taxi
 Association

Appendix A

1 Belle Vue Square
Broughton Road
SKIPTON
North Yorkshire
BD23 1FJ



Telephone: 01756 706343

Fax: 01756 706417

e-mail: taxiconsultation@cravendc.gov.uk

Please address correspondence on this matter to:
Deborah Bragg – Licensing Manager

10 July 2017

Dear Licence holder/Stakeholder

Consultation on Revised Taxi Licensing Policy

On 13 June 2017 the Licensing Committee agreed to a consultation exercise taking place on a new more comprehensive taxi licensing policy.

Craven's last policy was reviewed in November 2012. The new policy has been written to strengthen the licensing regime and give applicants and licence holders a much more detailed overview of their responsibilities either when making an application or when licensed. The main aim of the new policy is to ensure that Craven has a robust policy in place designed to safeguard the travelling public who use the taxi trade and ensure that we can say that the taxi trade in Craven is one of the best in the Country when it comes to being ambassadors for the District.

The full document and appendices are available to view online at www.cravendc.gov.uk

The deadline for comments to be received is 2 September 2017.

You can comment on the contents by emailing taxiconsultation@cravendc.gov.uk or by writing to the address above. All responses will be collated and a further report submitted to the Licensing Committee in September 2017 where any amendments will be made to the policy with a view to the new policy being in place from 1 January 2018.

We are holding two open days on Monday 24 and 25 July 2017 between 10.00 and 16.00 for licence holders and any other person to come and view the documents at the Council Offices and ask any specific questions about the proposals. You will then be able to make any comments to be included in the consultation via the email address provided or in writing as detailed above.

In addition the documents will be available to view at the Council Offices during office hours and upon request they can be posted out.

The documents are quite lengthy, but below is an overview of the major changes which are being considered:-

- One policy document which sets out in detail an overview of Craven's view regarding licensing, what we intend to achieve and gives applicants and licence holder's alike a clear and concise document about what we expect as Licensing Authority as well as what we expect of applicant's and licence holders.

In particular at page 15 it sets out to define the term 'fit and proper' which underpins the whole licensing regime.

- A much more robust policy in relation to the relevance of previous convictions and other relevant information which sets out in much more detail how the Licensing Authority will take into account previous convictions, cautions and more importantly other information that it sees as relevant to a person's fitness to drive, be a vehicle licence holder or private hire operator. It drills down and describes different convictions and opens the remit by which we can assess a person's suitability to be licensed – it will make a more transparent process and applicant's/licence holders know exactly what we will be expecting as well as members of the public should they have an issue or complaint about a driver or vehicle. This includes a points table giving applicants/licence holders a more clear idea of whether a licence will be granted or when a licence will be revoked.
- The Private Hire Driver Conditions and Hackney Carriage Driver Code of Conduct have been updated to include conditions around driver conduct such as not engaging in inappropriate conversation with customers – something which is a common complaint received which does not always warrant Police intervention but gives officers a specific condition by which we can challenge driver behaviour and also gives the public an assurance that they can see in black and white that this behaviour is not acceptable.
- The conditions and code have also included the provisions of the Equality Act 2010 so that even those drivers of vehicles who are not on the designated list are still bound by its requirements – again something the public can see and know they can come to the Licensing Authority about.
- Requirement that drivers are required to inspect their vehicle before starting work and record this information – again a common issue is problems with vehicles being driven which are unfit due to tyre degradation and it is only when stopped by enforcement or the Police that the driver realises that there is an issue. Again we will have an enforceable condition by which we can challenge a drivers licence validity.
- Included is a condition around working hours and not using customer or other personal information for anything other than the purpose which it is collected for – a complaint I have come across is where a driver has a mobile number for a passenger to carry out a journey then he/she chooses to text the customer at a later time/date for other reasons.

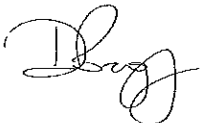
- Also included on top of the existing condition around notification of convictions/cautions is a requirement to notify us of arrest for an alleged offence.
- Code of Conduct when working with Vulnerable Passengers – a new code which will be attached to all licences designed to promote and ensure good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi and private hire trade.
- Driver Dress Code – to seek a standard of dress that provides a positive image of the trade.
- Medicals – will be brought in line with DVLA so that a medical is required on first application then on renewal following the age of 45, 50, 55, 60, 65 and then every year thereafter.
- DBS Checks – to be brought into line with expiry of licence rather than part way through the licence and a requirement that all licensed drivers sign up to the Update Service to allow licensing to conduct checks if necessary during licence period.
- Qualifications – All applicant's/licence holders to evidence that they have obtained a relevant qualification – BTEC Level 2 Certificate in the Introduction of the Role of the Professional Taxi and Private Hire Driver or equivalent.
- CSE Awareness Training/Other relevant training e.g. Dementia Awareness – we will look to have a specific training course that can be rolled out to include all new drivers and refresh those already licensed.
- Specifications for Hackney Carriage and Private Hire Vehicles – so that when proprietors are purchasing vehicles that they know exactly what is required. The condition relating to tinted glass remains unchanged.

No change to age of vehicles licensed proposed but the introduction of emissions standards to Euro Standards 5 as a minimum – applied to all new registrations from 1 January 2011 so all vehicles will meet this requirement – Euro Emissions Standard 6 from 1 April 2020 – applicable to all new registrations from 1 September 2015.

- Introduces a specific requirement around tyres that a minimum 2.0mm tread depth (1.6mm is the legal depth), advises what 'fit for purpose' means. Also disallows part worn tyres being used on vehicles.
- Bans any vehicle being licensed if it has been written off as a Category A, B, C or D – checks will be undertaken via HPI to establish whether a vehicle has been written off either before being licensed or during a licence period.
- Exceptional Vehicle Criteria for licence holders who can apply to have a vehicle licensed which is beyond the age limit specified.

- Conditions for Hackney Carriage and Private Hire Vehicles – Strengthened to include more around accidents and how a proprietor can obtain a 'hire vehicle'.
- Requirements for Vehicle Examination – Sets out in detail what the vehicle examiners will be looking for to pass or fail a vehicle.
- Vehicle Advertisement Conditions – Sets criteria for advertisements on vehicles.
- Licensed Vehicle Taxi Camera Technical Specification – taxi cameras have not been made mandatory although this is something that members may wish to consider as part of the consultation exercise. A specific set of criteria has been provided to ensure consistency amongst the trade for those who wish to avail themselves of a system.
- Hackney Carriage Byelaws – unchanged.
- Private Hire Operator Conditions – includes a new condition that only vehicles and drivers licensed with Craven are employed and any staff employed to work on behalf of the business e.g. telephone operators are DBS checked by Disclosure Scotland.
- Points Based Enforcement Scheme – designed to deal with common infringements rather than prosecution such as failure to wear badge or display plates/door signs. Accumulation of points would be similar to the DVLA with a trigger point for a licence review by the Licensing and Appeals Sub Committee.

Yours sincerely



Deborah Bragg
Licensing Manager

**List of Organisations/People Contacted Directly about Taxi Policy Consultation in
Addition to Other Consultees**

Community First Yorkshire

Skipton and Craven Action for Disability

Carers Resource

Dyslexia Network Plus

National Deaf Childrens Society

SELFA

Dementia Action Alliance

Sparkle Craven Support

Settle Dementia Alliance

Age UK North Craven

Royal National Institute for the Blind

Guide Dogs for the Blind

Youth Service – Craven

Compass

North Yorkshire Youth

Appendix B.

TABLE OF RESPONSES TO CONSULTATION ON REVISED TAXI LICENSING POLICY

NAME OF PERSON/ORGANISATION	COMMENT
Stacey Reffin – Community Safety Hub Craven District Council	<p>We are happy that it sets a much higher standard than previously held, the safeguarding of passengers (as well as the driver and the local authority) is paramount and we are very supportive of measures enabling this to be done, previously this was a big concern before the new officer came into post.</p> <p>It means rigorous checks are done regularly and schemes to deal with common infringements are dealt with, again we are very much in favour of these.</p> <p>The message that the revised policy sends out to drivers and the public using this service are very positive, clear and concise.</p> <p>The revised policy is long overdue, appropriate and allows a proportionate response making complaints much easier to deal with.</p>
Unknown Taxi Driver	<p>I would like the council to stop issuing any new plates in Craven district council immediately. I have been working in Skipton for many years and i have witnessed many times the problems faced by the people trying to park their cars in the car park and taxi drivers trying to make a living at the same time. I would like to bring the licensing officer's attention to the absurdity of the current situation.</p> <p>I understand the drivers are over charging and not maintaining their taxis properly. Doesn't the officer in charge understand the connection of the free market concept of supply and demand.</p> <p>The council should also stop allowing the minibuses to use the taxi rank as they are taking much larger space and also taking the trade away from normal taxis. The mini buses should be charged a higher fee as well and only the minibuses that are disabled friendly should be licenced.</p> <p>Town the size of Skipton doesn't require any more than 50 taxis in total. The blunder caused by the incompetent council has resulted in almost 5 times that amount to be operated in a small town.</p>

	<p>Please enforce the bylaws you are proposing as this will bring order into the chaos. The should encourage the taxi companies in Skipton to get private hire cars and provide parking space to their own private hire vehicles.</p> <p>The public hire taxis should all have same taxi signs with Council's logo, same as on door signs. Any drivers breaking the rules as proposed by the officer should be stopped being licenced.</p> <p>The council should aim the bring the public hire plate below 100. The council must provide spaces to park these vehicles. If only around 20 spaces are available at any given time than the taxi licenced shouldn't be more than 3 times that amount. At present its over 10 times at least.</p>
<p>John Pickering – Dalesman Central Taxis</p>	<p>I, John Pickering, have been a licensed hackney carriage driver for 25 years working for Dalesman Central Taxis Ltd.</p> <p>Here is my opinion and concerns on some items contained in this document.</p> <p>Appendix A point 2</p> <p>The taking of a BTEC or NVQ qualification for existing drivers is in my view not required. Many taxi drivers in Craven district have done there job for many years successfully and safely. What would these driver gain from a course like this? There is also the concern of cost for these courses.</p> <p>This idea would work for new applicants and driver who receive some form of complaint about the service they provide.</p> <p>The fit and proper person test</p> <p>This on paper is a great idea. But once the licensing department have refused someone a license on the ground they are not a fit and proper person the applicant takes it to appeal and the appeals panel give them the license anyway. There are licensed hackney carriage drivers working today who have been convicted of a full spectrum of crimes.</p>

Appendix G

We don't need a dress code as long as drivers are clean and tidy. Personally I don't like wearing short sleeves as I suffer with psoriasis on my arm therefore I like to keep my arms covered.

Appendix H

This is a whole can of worms. How do you identify vulnerable passengers? Do you ask all passengers if they consider themselves to be vulnerable? What if a vulnerable passenger says they are not vulnerable? What if I offend someone by asking?

Is the seventh bullet point a joke. Don't touch a person inappropriately! Maybe if this is something you feel a need to advice drivers you giving licenses to the wrong candidates.

Point 6.10 a tyre depth on 2mm and part worn tyres

The tyre depth and part worn tyres is something you cannot enforce and should be removed. You will never know what date a tyre was fitted therefore you will never know if it was part worn. Also part worn tyres are perfectly legal.

8 Operators 8.1

I do not operate any private hire vehicles therefore I do not need a private hire operators license. If I don't have a television do I still need a license?

Fire extinguishers

I don't think these need to be serviced every year. The type of extinguisher taxis have come with a used by date. Personally I don't think we should carry fire extinguishers at all. It encourages people to try and tackle fires themselves something advised not to do by the fire service.

Overall I welcome most of the changes apart from the ones highlighted in this email.

	<p>I have not included my concerns about making a callout charge as I think this can be resolved with the pending tariff card review.</p>
<p>Nigel Stretton – Director Settle Taxis</p>	<p>Section 5 Appendix K Tinted Windows</p> <p>The ratio of vehicles produced by Ford for the UK in non- basic spec across all their model range is about 80/85%. That is it is becoming harder to find vehicles without privacy glass or a dark tint that would not pass. I completely agreed with this policy at the time with regards to blacked out windows and I most certainly still do. But as Ford pointed out they do not do blacked out windows(except to special order) all their glass allows the occupants to be seen from outside.</p> <p>I am sure the council is aware that almost no one has adopted CDC s policy on this including the authorities for whom we work NYCC LCC schools colleges and such institutions plain or lightly tinted glass no longer being the norm.</p> <p>The down side of being obliged to try to buy basic models is that they are very much that. No driver/passenger convenience safety or comfort extras in one particular case we have researched the basic spec is just not acceptable. No aircon no parking /reversing sensors no blue tooth (hands free mobile being a condition in a NYCC contract) no heated windscreen no heated mirrors it runs to many many more items. Not luxuries when in the depths of winter we are running eight young school children to Chapel Le Dale Ribbleshead and beyond. I think that the figures applied to tints should reflect what is needed the elimination of blacked out windows not putting a huge number of vehicles beyond consideration.</p> <p>The maximum manufacturers tints for privacy glass are 33% luminous transmission. At this figure I maintain people can see in indeed this was upheld in court last year the judge ruling for a driver against Darlington Licencing Authority on that specific point</p> <p>I stress I have no intention of going down that route however I think the council should reconsider the figures they apply. As it is it effectively prevents drivers buying all but basic models. During the purchase process nobody seems to know or care what the luminous transmission is let alone what %</p>

	<p>certain models are it becomes a bit of a lottery as to what you are actually getting. Though I am assured no manufactures privacy glass has less than 33% luminous transmission.</p> <p>Section10 Appendix K Seating</p> <p>If the factory build sheets and the registration documents state eight passenger seats plus driver does the council accept that? what does orientation refer to in respect of such seating?</p> <p>Section 15 Appendix K Colour Enforcement</p> <p>When and how would a move to white be introduced ? How would this effect existing vehicles we have two with five years to run one one with nine years to run and one with just under ten in addition we have one one ordered with the deposit paid on factory build with delivery twelve to fourteen weeks our company colour is metallic silver. I consider the suggestion to be badly thought out and almost impossible to implement in anything like a sensible time frame unless the council is considering forcing operators and individual drivers out of business.I am also of the opinion that making CDC taxis look like those from other authorities ie Bradford is a very bad move. Does this proposal effect private hire vehicles?</p>
<p>David Travis – Compliance Technical Officer Integrated Passenger Transport North Yorkshire County Council</p>	<p>A company bought a wheel chair adapted vehicle privately from someone in Chigwell near London. They had had it checked out by licencing and had a plate on it when I went to see it.</p> <p>When I checked the V5c registration document I found it was registered as a Disabled Passenger Vehicle which obviously attracts no road tax as they are exempt. Also because of this it would have to be used solely for the transport of disabled people and not for others.</p> <p>I have come across this before and also found one that was registered as an NHS vehicle again which also attracts nil road tax. I was at a Harrogate Borough Council meeting yesterday and I asked their licencing officer their procedure and he said that it would never happen with them as they always check the V5c on WAV's or modified vehicles. I wondered if I could put it forward as a proposal (The checking of V5c) if it was not already in your policy.</p>

	<p>This then lead me onto thinking about another case I was involved in that was in the Craven area in 2015. It involved Taxi drivers and companies converting vans into taxis. At the time with your predecessor there was no check on vehicles that had been converted from either vans or from larger vehicles (i.e. 12 seat minibuses) into taxis. Looking back at my records I found three that came to mind which were YE61 MUO, DK57 UXZ and FV59 XBT. All had been converted from vans into taxis and all three were still registered as N1 goods vehicles and not M1 passenger carrying vehicles.</p> <p>At the same time I found a certificate from a conversion company for the seating in one of the vehicles which I gave to the police in Skipton. The problem was on the certificate there were two different registration numbers for completely different vehicles and when I checked with the company who had issued the certificate the certificate number related to an entirely different vehicle, so there was in fact three vehicles involved in the same certificate. I don't think the police got anywhere with it as they never came back to me.</p> <p>I would also like to mention as a proposal the checking of accessible lifts. These come under the LOLER (Lifting Operation and Lifting Equipment Regulations), but I could not find any mention of them in your policy. They require a six monthly inspection by a competent person and an annual weight test to conform with these regulations. Having said that I don't think I have come across anybody in the Craven area with a lift but they may be out there.</p>
Chaudhry Shahzad Ali – Licensed Driver	<p>I am one of taxi driver who held craven district taxi badge. I personally think craven district has good enough conditions already. i am totally disagree with need conditions and laws for taxi licencing. as for my conser I am not happy and and reject new rules.</p>
Mohammed Arif Chowdhry – Licensed Driver	<p>I am really concerned about new by laws regarding hcd and hcv.i think that hcv limits should be 10 years and vehicles must be 7 years old before put them in taxi licensed. Clothing code of conduct is unthinkable as every taxi driver wears sensible dress.</p> <p>There should be at least 2 independent garages around in skipton where taxis could get mot from.i think legal tyres limit nationally is 1.6mm which should be ok for taxis too.Driving test after ten years being in taxi is just joke as council request medical checkup including eye test after every 5years.Though new taxi drivers must have driving test and the knowledge test.</p>

<p>Sharaffit Ali and drivers of Aire Cabs</p>	<p>After carefully reading through the consultation document we would like to raise a few queries. As a firm we believe that craven district council should be update with policies and procedures, however we do not agree that copy and pasting a document from Rotherham council is the way this should be done.</p> <p>As proud skiptonians we are amazed and shocked that we are being tarnished and compared to the scandals that took place in Rotherham. We as a firm take pride and joy in picking our local customers up and having a solid relationship with them.</p> <p>Appendix A point 2</p> <p>Having spoken to NPHA it is believed that the btec course will no longer be provided from December 2017. What gain would drivers have by doing a btec course. Does the council have examples or scenarios where the btec course would have helped. Is there any evidence within cdc proving this? Cost would be another issue.</p> <p>Dress code</p> <p>We would like to ask the question is the salwar kameez which most Asian drivers wear acceptable and if not why? If it is acceptable we would like it to be added into the list</p> <p>Tyre depth</p> <p>Vosa state that the minimum tyre depth should be 1.6mm. As taxi drivers the garages have always told us the way to be able to tell your tyre is approaching 1.6mm</p> <p>Another concern would be how would licensing enforce such a condition when in the eyes of the law we are legal</p> <p>Appendix H</p> <p>This is a whole can of worms. How do you identify vulnerable passengers? Do you ask all passengers if they consider themselves to be vulnerable? What if a vulnerable passenger says they are not vulnerable? What if I offend someone by asking?</p> <p>Is the seventh bullet point a joke. Don't touch a person inappropriately! Maybe if this is something you feel a need to advice drivers you giving licenses to the wrong candidates.</p> <p>Refusal of cat B C D Vehicles</p> <p>Just because a vehicle has been registered does not mean it is not roadworthy. Most insurance</p>
---	--

	<p>companies now a days find it easier to pay a customer out that repair the vehicle.</p> <p>If the council wants to remove these vehicles then i believe as a council you should allow the age limits on saloon vehicles to be 7 years old when first plated and be allowed to run to its 12th anniversary.</p> <p>For wheelchairs and minibuses allow them to be 10 years old and have an anniversary of 15 years. This allows the drivers to buy a vehicle within means and also helps the council in its objective of removing categories vehicles</p> <p>Working hours</p> <p>How would this actually work. Out of every hour there is a chance a driver could be sat doing nothing for 25 to 30 minutes. Also by bringing something into place like this customers would be affected as drivers would work only the busy hours.</p> <p>Thank you for listening to our considerations</p>
Amjad Ali – Star Taxis	<p>Having read the consultation documents provided and sought relevant advice from professionals in relation to this article, we, as a local taxi company, in the heart of Skipton, operating as Star Taxis have a number of serious concerns we would like to raise .</p> <p>As a forward thinking company who understands the importance of safeguarding both for passengers and drivers we strive to follow all procedures and resolve any issues immediately, using safe and appropriate measures. As drivers we agree all councils need to continuously update policies, however we have grave concerns regarding a document that is word for word copied and pasted from Rotherham council, a council that has recently been tarnished with grooming scandals.</p> <p>Our company is based in the heart of Skipton, enabling us to provide a service based on a good community vibe, where all our customers are made to feel welcome in a professional setting.</p> <p>Our main concerns are as follows: Appendix A point 2</p> <p>As members of NPHA, we met and discussed the importance of a btec course and the relevance of such a course. To our knowledge, no such evidence has been provided to suggest it has been effective</p>

or used successfully in any scenarios. If so, can you please provide details. We, as drivers, feel this is just another added cost providing zero benefit to passengers who, ultimately, are the ones we are trying to support.

In relation to dresswear, we would like to question whether the use of salwar kameez is acceptable. A number of our Asian drivers feel comfortable wearing this and though it is not a religious duty to wear such clothing, culturally, a high volume of our drivers from South Asia where such dress is a formality. If you deem salwar kameez inappropriate, can you please state why?

Appendix H

As previously stated, we at Star taxis understand the concerns in regards to vulnerable customers and ensure the welfare of our customers is of paramount importance. As drivers we are duty bound to stay professional at all times and thus find bullet point 7 very offensive. I am sure all drivers are aware of the consequences of touching a passenger inappropriately and as a council, if you have concerns about a particular driver, then no licence should be issued!

Identifying vulnerable issues is a topical issue. As you can appreciate, as taxi drivers we are not counsellors so are unable to identify every person who is in crisis. However, if a passenger is visibly upset, then all drivers follow the correct procedures but once again, every issue is different so cannot be categorised into subjects.

Refusal of Cat C/D

A number of drivers are currently driving registered vehicles and have raised the point in question. Once a car has been classed as c or d, it has to pass a rigorous test and mot to ensure its road worthiness. It is no less safe than any other car on the road and feel they should be allowed to operate.

If the council still wishes to go ahead with these changes, then we would like the council to reconsider the age limits on a saloon car to be 7 years old when first plated and Wheelchair Vehicles 8 years. Also increase Vehicle limit.

Purpose of this is to allow drivers to buy affordable yet reliable cars and meeting the councils aims of

	<p>removing categorised cars.</p> <p>Working hours</p> <p>With Skipton being a small town, the demand for taxi drivers is predominantly set a pre determined hours, ie rush hours and late night weekends. During the rest of the week, working patterns are very irregular making it practically impossible for drivers to work set hours. By having set hours for drivers, would have a detrimental effect on customers as all driver would obviously only work during bust periods therefore providing a poor service to customers during less busier hours</p>
<p>Antony Radley Practice Business Manager Dyneley House Surgery</p>	<p>With reference to the consultation, we would like to give the following feedback:</p> <p>CSE Awareness</p> <ul style="list-style-type: none"> • We support the idea for training in this area and other areas e.g. dementia awareness
<p>M Shahban – Station Taxis</p>	<p>Having read the consultation documents provided and sought relevant advice from professionals in relation to this article, we, as a local taxi company, in the heart of Skipton, operating as Station Taxis have a number of serious concerns we would like to raise .</p> <p>As a forward thinking company who understands the importance of safeguarding both for passengers and drivers we strive to follow all procedures and resolve any issues immediately, using safe and appropriate measures. As drivers we agree all councils need to continuously update policies, however we have grave concerns regarding a document that is word for word copied and pasted from Rotherham council, a council that has recently been tarnished with grooming scandals.</p> <p>Our company is based in the heart of Skipton, enabling us to provide a service based on a good community vibe, where all our customers are made to feel welcome in a professional setting.</p> <p>Our main concerns are as follows:</p>

Appendix A point 2

As members of NPHA, we met and discussed the importance of a btec course and the relevance of such a course. To our knowledge, no such evidence has been provided to suggest it has been effective or used successfully in any scenarios. If so, can you please provide details. We, as drivers, feel this is just another added cost providing zero benefit to passengers who, ultimately, are the ones we are trying to support.

In relation to dresswear, we would like to question whether the use of salwar kameez is acceptable. A number of our Asian drivers feel comfortable wearing this and though it is not a religious duty to wear such clothing, culturally, a high volume of our drivers from South Asia where such dress is a formality. If you deem salwar kameez inappropriate, can you please state why?

Appendix H

As previously stated, we at Station taxis understand the concerns in regards to vulnerable customers and ensure the welfare of our customers is of paramount importance. As drivers we are duty bound to stay professional at all times and thus find bullet point 7 very offensive. I am sure all drivers are aware of the consequences of touching a passenger inappropriately and as a council, if you have concerns about a particular driver, then no licence should be issued!

Identifying vulnerable issues is a topical issue. As you can appreciate, as taxi drivers we are not counsellors so are unable to identify every person who is in crisis. However, if a passenger is visibly upset, then all drivers follow the correct procedures but once again, every issue is different so cannot be categorised into subjects.

Refusal of Cat C/D

A number of drivers are currently driving registered vehicles and have raised the point in question. Once a car has been classed as c or d, it has to pass a rigorous test and must ensure its road worthiness. It is no less safe than any other car on the road and feel they should be allowed to operate.

	<p>If the council still wishes to go ahead with these changes, then we would like the council to reconsider the age limits on a saloon car to be 7 years old when first plated and Wheelchair Vehicles 8 years. Also increase Vehicle limit.</p> <p>Purpose of this is to allow drivers to buy affordable yet reliable cars and meeting the councils aims of removing categorised cars.</p> <p>Working hours</p> <p>With Skipton being a small town, the demand for taxi drivers is predominantly set a pre determined hours, ie rush hours and late night weekends. During the rest of the week, working patterns are very irregular making it practically impossible for drivers to work set hours. By having set hours for drivers, would have a detrimental effect on customers as all driver would obviously only work during bust periods therefore providing a poor service to customers during less busier hours</p> <p>These are some of the concerns listed. I thank you for time reading this and hope to hear from you soon.</p>
<p>Sarah Schoenberger – Public Affairs Officer The Guide Dogs for the Blind Association</p>	<p>0.1 Guide Dogs provides mobility services to increase the independence of people with sight loss in the UK. Alongside our mobility work we campaign to break down physical and legal barriers to enable people with sight loss to get around on their own terms. Current estimates suggest about 23,430 people with vision impairments are living in North Yorkshire of which about 76 are guide dog owners.</p> <p>0.2 Taxis and private hire vehicles (PHVs), and the door to door service they provide, are essential to the independence of blind and partially sighted people, who are often unable to drive or use public transport. However, accessing taxis and PHVs can be a major challenge for assistance dog owners. A Guide Dogs survey found that 42% of assistance dog owners have been refused by a taxi or PHV driver in a one-year period because of their dog – despite this being a criminal offence under the Equality Act 2010.2 Such access refusals can have a significant effect on assistance dog owners' lives, leading to feelings of anger and embarrassment and a loss of confidence and independence.</p> <p>0.3 To address this, it is important that taxi and PHV drivers know their legal obligations and how to best offer assistance to their customers with vision impairments, including those travelling with a guide</p>

	<p>dog. Having to undertake disability awareness training, as stated in this policy, will help to address some of these issues. However, we recommend changing this to disability equality training which includes training on how social barriers and attitudes affect disabled people.</p> <p>0.4 Recognising the damaging effect an access refusal can have on an assistance dog owner's life, the policy should clearly state that any such refusal will be investigated with a view to prosecution.</p> <p>0.5 We further recommend specifying that medical exemptions certificates for carrying assistance dogs will only be issued where medical evidence is supplied. This will help ensure exemptions are only granted where the driver has a genuine medical condition that is aggravated by exposure to dogs.</p> <p>Key recommendations: We recommend to change the requirement of disability awareness training to disability equality training, and to clearly state that any reported access refusal will be investigated with a view to prosecution.</p> <p>1. Changing "Disability Awareness Training" to "Disability Equality Training"</p> <p>1.1 Disability awareness training has proven helpful to increase peoples' understanding of individual disabilities. Usually, such training provides an explanation of medical details as well as simulation exercises (such as seating people in wheelchairs or using 'simulator specs' to give participants an insight into some of the challenges people with sight loss face). However, the training does not focus on the greater social issues that affect disabled people and what is needed to make services more inclusive.</p> <p>1.2 This is explored by disability equality training, which focuses on the concept of people being disabled by society's barriers and attitudes. It highlights the role an organisation and individuals play in removing these barriers, while also including awareness elements such as customer care, etiquette and appropriate communication. It thereby helps people understand disability from both a human rights and equality perspective.</p> <p>1.3 To enable taxi and minicab drivers to deliver the best and most inclusive service possible, we therefore suggest they undertake disability equality training. This will ensure they are knowledgeable on disability issues, have discussed barriers in their service and how to overcome them, and are informed</p>
--	--

	<p>about their legal obligations under the Equality Act 2010.</p> <p>2. Enforcement</p> <p>2.1. We recommend that every refusal of an assistance dog owner should be investigated with a view to prosecution. It is a criminal offence for any operator or driver to refuse to carry assistance dogs. On conviction for such an offence, drivers can be fined up to £1,000.</p> <p>2.2. The emotional impact of facing discrimination and confrontation when trying to carry out everyday activities takes a significant toll on assistance dog owners. Apart from feelings of anger and embarrassment, it can lead to a loss of confidence and independence. As guide dog owners report:</p> <p>2.2.1. "Each refusal is crushing, confidence shattering, rejecting, and traumatic. I always feel that I don't want to go out after - but work dictates I must." Guide dog owner, Stevenage</p> <p>2.2.2. "The impact of a taxi refusal for me with my guide dog and family is far more than the initial destroying and emotional refusal. Not only does the incident impact on my whole family at the time as well as obviously the inconvenience but it is a continuous feeling of worthlessness this puts upon you as a guide dog owner.</p> <p>The experience of a refusal for a taxi puts a cloud over your everyday plans and movements for fear you may have to go through it again with another taxi driver. It is hard to put into words how demoralising and sickening an actual refusal feels." Guide dog owner, Suffolk</p> <p>2.2.3. "I personally avoid taxis because of a fear of being refused and left stranded. In the end it is events such as these, rather than my visual impairment per se, which make me disabled." Guide dog owner, London</p> <p>2.3. It is important that assistance dog owners know that all cases of access refusals are investigated and appropriate penalties issued. To this end, we suggest inserting the following paragraphs into the policy:</p> <p>2.3.1. The Licensing Authority will investigate all reported violations of the Equality Act 2010 with a view to pursuing a conviction and ensuring appropriate penalties are given that are in line with the distressing</p>
--	---

	<p>impact a refusal can have on an assistance dog owner.</p> <p>2.3.2. The Council will undertake periodic test purchasing on licenced vehicles to ensure that licensing requirements are being complied with.</p> <p>3. Medical exemption certificates</p> <p>3.1. As the draft policy notes in 5.7, drivers can be exempt from carrying an assistance dog on medical grounds, if they have a certifiable medical condition which is aggravated by exposure to dogs and hold an exemption certificate.</p> <p>3.2. To ensure that exemptions are granted correctly, the policy should specify that exemption certificates will only be issued when authorised by a medical practitioner and accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.</p> <p>3.3. It is often difficult for vision-impaired passengers to identify the validity of exemption certificates. Currently, it is not permissible for licensing authorities to issue exemption certificates which incorporate tactile features, as this would alter the certificate's prescribed form and render it invalid. We recommend that licensing authorities issue exemption certificates that are accompanied by features distinguishable to vision-impaired passengers.</p>
<p>Stephen Dalesman Limited</p> <p>Pickering Central Taxis</p>	<p>I, Stephen Pickering, have been a licensed hackney carriage driver for 30 years working for Dalesman Central Taxis Ltd. Here is my opinion and concerns on some items contained in this document.</p> <p>Appendix A point 2</p> <p>The taking of a BTEC or NVQ qualification for existing drivers is in my view not required. Many taxi drivers in Craven district have done there job for many years successfully and safely. What would these driver gain from a course like this? There is also the concern of cost for these courses.</p> <p>This idea would work for new applicants and driver who receive some form of complaint about the service they provide.</p>

	<p>The fit and proper person test</p> <p>This on paper is a great idea. But once the licensing department have refused someone a license on the ground they are not a fit and proper person the applicant takes it to appeal and the appeals panel give them the license anyway. There are licensed hackney carriage drivers working today who have been convicted of a full spectrum of crimes.</p> <p>Appendix G</p> <p>We don't need a dress code as long as drivers are clean and tidy. Personally I don't like wearing short sleeves as I suffer with psoriasis on my arm therefore I like to keep my arms covered.</p> <p>Appendix H</p> <p>This is a whole can of worms. How do you identify vulnerable passengers? Do you ask all passengers if they consider themselves to be vulnerable? What if a vulnerable passenger says they are not vulnerable? What if I offend someone by asking?</p> <p>Is the seventh bullet point a joke. Don't touch a person inappropriately! Maybe if this is something you feel a need to advice drivers you giving licenses to the wrong candidates.</p> <p>Point 6.10 a tyre depth on 2mm and part worn tyres The tyre depth and part worn tyres is something you cannot enforce and should be removed. You will never know what date a tyre was fitted therefore you will never know if it was part worn. Also part worn tyres are perfectly legal.</p> <p>8 Operators 8.1</p> <p>I do not operate any private hire vehicles therefore I do not need a private hire operators license. If I don't have a television do I still need a license?</p> <p>Fire extinguishers</p> <p>I don't think these need to be serviced every year. The type of extinguisher taxis have come with a used</p>
--	--

	<p>by date. Personally I don't think we should carry fire extinguishers at all. It encourages people to try and tackle fires themselves something advised not to do by the fire service.</p> <p>Overall I welcome most of the changes apart from the ones highlighted in this email. I have not included my concerns about making a callout charge as I think this can be resolved with the pending tariff card review.</p>
<p>Sylvia Merrett – Member of Craven Disability Forum /Chair of Craven Mental Health and Wellbeing Forum</p>	<p>I have been made aware through my membership of the Craven Disability Forum that you are consulting on CDC taxi licencing.</p> <p>I am responding as a member of the public who has mobility issues with a walking aid (but not a regular taxi/private hire user as I drive), the Chair of Craven Mental Health & Wellbeing Forum with an interest in Safeguarding, and also someone in a previous life with 5 years experience in a different local authority as a holder of a hackney carriage licence (using estate/saloon cars) in the area of the Queen Elizabeth's Foundation for the Disabled and the Royal School for the Blind, who were regular customers. I have also been a driver of community transport minibuses so have undertaken MIDAS.</p> <p>I therefore understand the importance of accessibility, safeguarding, licencing and the cost implications for licence holders.</p> <p>Essential</p> <p>Applicants for a driver's licence are required to have passed the Council's knowledge test. This test will ensure that the applicant has sufficient knowledge in relation to: • Literacy and Numeracy • Child/Adult Safeguarding awareness • Disability Awareness (including physical and sensory disability) • Road Safety • Basic Vehicle Maintenance • Customer Care/Customer Awareness • Local Knowledge</p> <p><i>How do you plan to deliver the Disability Awareness training please?</i></p> <p><i>Will this include awareness of any aids that would help people who can transfer from and to a wheelchair, or use a stick to easily transfer to a seat such as a seat turntable or a handle to hold onto?</i></p>

	<p><i>As many disabled people require taxis to get around to access their basic needs and therefore will spend regularly, what about the issue of a Gold Standard Award for licence holders who go the extra mile that would show that supporting disabled people is something they feel positive about doing? I feel this would encourage compliance and 'going the extra mile' with customer service.</i></p> <p>Licensed drivers are under a legal duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers who have a medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. If an application is successful they will be issued with an exemption certificate, and also be issued with a notice of exemption. The notice of exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard. In addition if a driver has vehicle which is on a designated list of wheelchair accessible vehicles then there is a legal duty to provide assistance to those passengers. Drivers who have a medical condition which prevents them from carrying out this duty they may apply to the Council for exemption from the duty on medical grounds. If an application is successful they will be issued with an exemption certificate, and also be issued with a notice of exemption.</p> <p><i>How will a customer know that a driver is on a designated list of wheelchair accessible vehicles?</i></p> <p>As most assistance dogs are used by people with visual impairments, how will they ascertain from an exemption certificate displayed in the window that they cannot see that they are not being discriminated against?</p> <p><i>Who will decide as to where the dog can be carried?</i></p> <p>Many licence holders hold school contracts as a main source of their bread and butter, often with children who have special needs. As well as the Driver's medical condition is there any provision for exemption for regular customers in this category who have allergies to dogs? Are there any guidelines on how the dog can be carried, such as do they need to be on the floor, can sit on the seats, dog owning customers/licence holders providing protective seat covers? It isn't possible to immediately Hoover up any dog hairs on a seat between customers and as well as the allergy issue there is also the clothing issue. I used to ask the customer to have the dog between their legs on the floor and if this</p>
--	---

wasn't possible then to provide a blanket for the seat.

5.9 Qualifications

The Council believes all passenger transport drivers whose role demands high standards in driving and customer service would benefit from a nationally recognised qualification that includes customer care, meeting the needs of people with disabilities, road safety, the handling of emergencies and how to diffuse difficult situations and manage conflict. As such, applicants (who are not existing licence holders) whose application for a drivers licence is determined on or after the date on which this policy becomes effective 22 will be required to provide evidence of the following qualifications/skills to the Council before a licence will be issued: • BTEC Level 2 Certificate in the Introduction to the Role of the Professional Taxi and Private Hire Driver. Alternative qualifications may be accepted provided that they are an equivalent standard of the BTEC and have a comparable syllabus. Any certificate must have been awarded within the last 3 years. In cases where the certificate was awarded more than 3 years ago, the certificate holder must demonstrate that they have undertaken a suitable refresher/CPD course – the content of which will be determined by the Council. • Satisfactory completion of an approved training/awareness raising course in relation to safeguarding children and vulnerable people. This course must have been approved by Craven District Council Licensing Service. • Ability in English and Maths at least to Entry Level 3 standard (as defined in the National Qualifications Framework). Suitable providers will be sourced by the Council along with information around costs and availability of the course.

Very much agree with this. I don't think the costs of training though should be so high as to be prohibitive to new licence applicants. Is there any funding from the government to support this training? With poor transport issues in the more rural parts of Craven – sometimes no taxi service, it is important that the provision of this necessary transport is supported wherever possible.

Taxi Cameras

Where a proprietor chooses to install a taxi camera the equipment must be suitable and be capable of recording both audio and video. The system must meet or exceed the Council's specification for taxi camera systems and must be operational at all times that the vehicle is being used as a licensed vehicle

(i.e. for the carriage of fare paying passengers). The system does not need to be operational during other times (for example when being used for domestic purposes). Video recording must be active at all times. Audio recording must be active in any of the following circumstances: • An unaccompanied child (i.e. under 18) or vulnerable adult is being carried in the vehicle, or • Where the driver and customer are involved in a dispute or the driver feels threatened by the behaviour of a passenger. Activation of audio recording must be triggered by the driver pressing a switch/button. Audio recording will continue until such time as the button/switch is pressed again. This switch will activate/deactivate audio recording independent of the passenger's audio activation button/switch. There must also be the facility for the passenger to activate audio recording (independent of the driver) should the passenger wish to do so. Activation of audio recording must be triggered by the passenger pressing a switch/button. Audio recording will continue until such time as the button/switch is pressed again. This switch will activate/deactivate audio recording independent of the driver's audio activation button/switch. 33 Once activated (by either passenger or driver), the audio recording must continue for an uninterrupted period until it is deactivated. There must be an indicator located within the vehicle that is clearly visible to the passenger and clearly shows that the audio recording is taking place. At the end of the journey when the passenger leaves the vehicle, audio must be deactivated before another passenger enters the vehicle. If appropriate it must be reactivated should any of the situations above arise in relation to this new journey.

Appendix H

Craven District Council Code of Conduct When Working with Vulnerable Passengers A vulnerable passenger is a passenger whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, an elderly person or somebody with learning difficulties for example. In addition, an individual should be considered vulnerable if they do fall within the description above, but their condition is such as to render them more susceptible to harm than may otherwise be the case (for example as a result of being under the influence of alcohol). This code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. The following safeguarding principles should be embedded into driver working practice: • Drivers must carry photo ID at all times, and wear it in accordance with the conditions of licence. • A vulnerable passenger must not be transported in the front passenger seat of the vehicle. • The driver/operator must confirm that appropriate provision has been made for the vulnerable person

prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver/operator is responsible for appropriate measures, however if appropriate measures are not in place then the driver/operator must not undertake the journey. • When making a journey with vulnerable passengers, photo identification should be produced to the carer responsible for the vulnerable person. If necessary, the driver should obtain a record of the carer's contact details if there is no chaperone. • If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example, this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the Council. • Drivers should always ask if a vulnerable passenger needs help, and should not make assumptions. • Drivers must remain professional at all times and should not: o Touch a person inappropriately o Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language) o Behave in a way that may make a passenger feel intimidated or threatened o Attempt to misuse personal details obtained via the business about a person

How would a driver be able to identify a vulnerable adult at start or during journey? Not all vulnerabilities are obvious. Particularly thinking of mental health. Will someone with a visual impairment automatically be classed as vulnerable?

Not all vulnerable people have/need a carer. The Care Act mentions age as a vulnerability. Elderly people often have mobility issues due to arthritis. Many will be attending medical appointments but not necessarily be accompanied.

Independence is very important to disabled and elderly people, many who live alone and who do not always have someone who can travel with them.

How will the passenger know where and how that they can activate the audio? If this is written notice then how will someone with a visual impairment be made aware?

Is there a policy for the use, storage and destroying of recorded material?

Private Hire Operators that use licensed vehicles fitted with a fare meter must provide the Council with a current table of fares. This table must also be displayed in each Private Hire Vehicle so that is easily

	<p>visible to hirers.</p> <p><i>How are the prices of these fares conveyed to people with a visual impairment?</i></p> <p>A range of tools and powers, including mystery shopping,</p> <p><i>Would be happy to be considered for this.</i></p> <p>The Council has a procedure whereby the general public can submit service requests/complaints/concerns about licensed drivers and operators. This is accessible via the submission of a report form via the Councils website.</p> <p><i>Would other methods be available to people who cannot use a website?</i></p> <p>"Section 167 of the Act (Equality Act 2010) permits, but does not require, LAs (Local Authorities) to maintain a designated list of wheelchair accessible taxis and PHVs (Private Hire Vehicles). Whilst LAs are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that they do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra."</p> <p><i>What motivation/intention does CDC have to do this please?</i></p>
<p>Mohammed Rayhaan Nawaz – Licensed Driver</p>	<p>As an Hackney carriage driver Licensed in the Craven area I have issues with new rules and regulations.</p> <p>The first point I would like to discuss is the depth of the tyres. The council want to change the depth to 2.0mm. Where as the national and the legal requirement is 1.6mm. The change in depth is unnecessary and is just putting a financial strain on me as taxi driver. The government have chosen the limit for a reason. They must have conducted tests for 1.6mm to be a safe requirement. This results in extra money being spent when it shouldn't be. Its a complete unnecessary change.</p>

	<p>The second point is the working hours. Maximum of 9 hours. As a Hackney Carriage driver you are parked up waiting for a fare on the rank, so I am not driving all the time. I would have agreed with this point if Hackney Carriages are moving all the time, but we are not. We maybe sat over an hour waiting for a fare, for the fare only to go local. Which only takes around 10minutes. So roughly out of every hour we are only moving for 10 minutes.</p> <p>The third point is Category D vehicles. These type of vehicles are not dangerous to drive as a taxi. They always are repaired to a high standard. Most of the cases a damaged wing or even scuffed bodywork in an accident results in the vehicle being written off. So in my opinion Category D vehicles should be allowed as taxis but not for Category C as they are really damaged in an accident.</p> <p>The fourth point is Short distance journeys. A lot of the time we are being called out 10miles away from Skipton to carry out a 1 mile journey. We have to charge them a call out charge otherwise we are losing money picking the fare up. Why would I travel 10 miles there and 10 miles back for £4. Whereas I can stay In Skipton and only do 2miles and make the same. In my opinion there should be a callout charge system set up by the council taking precedent from other councils.</p> <p>I would like for you to look into this as all I can feel these new regulations will have a detrimental affect on my livelihood. There is not a lot of money in this trade. You just get by, making a wage.</p>
S Palmer	<p>I read with great interest the article in the Craven Herald about the taxi policy you are going to implement. If it makes far safer drivers on the roads I'm all for it. The only problem I have when following taxis in Skipton is that they don't use their indicators as they should – also they pull out without warning if you could make them aware of this would be better for other road users.</p>

Appendix C.



National Private Hire and Taxi Association

31 August 2017

Ms Annette Moppett
Head of Legal Services
Craven District Council
By email: amoppett@cravendc.gov.uk

REF: **Consultation: Hackney Carriage and Private Hire Licensing Policy**

Dear Madam

We are writing to you on behalf of all the members of the National Private Hire and Taxi Association who are licence holders in your district, to submit a response to the 246-page consultation document entitled "Craven District Council: Hackney Carriage and Private Hire Licensing Policy".

We wanted to put on record the fact that our comments and reflections in respect of the consultation document are offered in a spirit of cooperation and not confrontation. In fact, we believe that the consultation document – and the policy and Appendices contained within – are comprehensive, well laid out and carefully considered.

However, we are advised that the documentation is virtually a lift from the policy documentation submitted to, and subsequently ratified by, Rotherham Metropolitan Borough Council following the upheaval and rearrangement of Councillors and licensing personnel and their procedures as a result of the CSE upset in that district.

Our initial reaction to this fact, if it is the case (and we have researched the Rotherham Council website to see that the table of contents is virtually identical in the two documents), then it is respectfully submitted that if the same policy is imposed on the licence holders of Craven District Council it really would be "a sledgehammer to crack a nut" – and could well decimate the existing trade in your district.

If a comparison is made between the two districts, Rotherham MBC embraces the large town of Rotherham, whose population expanded greatly during the Industrial Revolution based on the development of thriving heavy coal and steel industries. Whilst those industries have long gone today, the fact remains that the population of Rotherham district is nearly 262,000, and has a fleet of licensed hackney carriage and private hire vehicles exceeding 800. It is one of the more densely populated districts in the north of the UK.

By contrast, the Craven District Council area, largely centred around the market town of Skipton, has a population of some 53,600; it is one of the least densely populated districts in the

entire country, and has a licensed fleet of approximately 178 vehicles between the taxi and private hire trades. Because of the geography of the region, these licensed drivers have to travel considerable distances between fares – and they accept that fact and have been working within those parameters for many decades.

We firmly believe that, if your council were to adopt the proposed Hackney Carriage and Private Hire Licensing Policy in its entirety, this would have not only a crippling stifling effect on the existing trade in the district, but would also be a considerable deterrent to future employment of drivers in the area.

Before we go into detail about the various points within the policy consultation about which our members are objecting, may we reproduce the paragraph from the March 2010 version of the Department for Transport's Best Practice guidance document (soon to be reviewed, we have been told since January of this year) covering "The Role of Licensing: Policy Justification": *"The aim of local authority licensing of the taxi and PHV trades is to protect the public. Local licensing authorities will also be aware that the public should have reasonable access to taxi and PHV services, because of the part they play in local transport provision. **Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade.** Local licensing authorities should recognise that too restrictive an approach can work against the public interest – and can, indeed, have safety implications.*

*"...Local licensing authorities will, therefore, want to be sure that each of their various licensing requirements is in proportion to the risk it aims to address; or, to put it another way, whether the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety... it is to urge local licensing authorities to **look carefully at the costs – financial or otherwise – imposed by each of their licensing policies.** It is suggested that they should ask themselves whether those costs are really commensurate with the benefits a policy is meant to achieve."* [Our emphasis]

At the risk of belabouring the point here, we would wish to highlight the fact that Craven is not Rotherham; the licence holders in your district should not be tarred with the same brush, until and unless you were able to provide evidence that there were miscreants in your district whose questionable background or behaviour merited such a clampdown on licensing procedures and conditions across the licence holders throughout the entire trade in Craven.

Please find below the individually highlighted objections or queries surrounding various proposals in the consultation document. They may not be in strict order of appearance, but rather under a subject heading, as – as your council's website points out – the consultation document is quite lengthy, and there is considerable duplication.

DBS checks and online update service: An assumption is made that all applicants and existing licence holders have access to the internet, as the proposals mandate that all must subscribe to the online DBS update service. It may be worth checking on this, as we have recently heard of individuals (not in your district) who have been penalised and put out of work unnecessarily, merely because they do not have a computer or internet access and their DBS was dealt with manually - albeit within the correct time frame of their existing licence.

Also, we have queried the position in Appendix R whereby private hire operators (by implication, grouping them with drivers, whereas booking staff must have the basic check) are required to have an enhanced DBS check, as we believe that this is not correct. Operators are not grouped in the same category as drivers under the Rehabilitation of Offenders Act 1974; they are not "hands-on" from the point of view of driving members of the public, and therefore require only a standard DBS check and not enhanced. Perhaps this should be clarified.

Dress code: Whilst it is laudable and desirable that members of the taxi and PHV trades present themselves smartly dressed in reasonable clothes to do the job, several of our members wish clarification as to whether the reference to men wearing trousers precludes the wearing of the salwar comis on certain Muslim days of worship. We note that this item is not listed under "undesirable clothing"; however they are concerned that its exclusion may amount to racial or religious discrimination. May we ask that you clarify this point in your response to this document, and during the Committee deliberations and finalisation of the policy.

2mm tyre tread depth: Strong objection has been voiced amongst our members about this requirement, as set out in Appendix N of your consultation document. I have advised them that, whilst they point out that the 2mm proposal is a higher standard than the 1.6mm tread depth under Construction and Use Regulations, there are well over three dozen councils around the UK that have mandated the 2mm tread depth, and therefore this condition would not be challengeable. May we ask however that you advise us as to the authority under which your council is mandating this requirement.

Refusal to license category A, B, C and D write-offs: Certainly the first three categories of vehicle should never be considered as fit for licensing as a taxi or PHV. However, the RAC advises that *"It is important to remember a Category D car will have been written off only because it is uneconomical to fix, not because any potential damage was so great it could not be driven again... As a result, no test is needed to validate the work, as a reputable garage should deliver the car to a roadworthy standard – if not, subsequent MoT tests should pick up any defects or faulty repairs anyway."*

Several of our members are asking that your council reconsider this point in respect of category D insurance write-offs, as their exclusion removes the possibility of licence holders often acquiring a good vehicle at a competitive price. Might it be possible to allow category D vehicles to be licensed on the basis that the licence application form would require the vehicle proprietor to declare this; and provide an HPI (or similar) check on the vehicle along with it having passed the detailed, high standard of mechanical test you are now proposing for all licensed vehicles.

Limited working hours for drivers: As set out in Appendices D and E, it is submitted that the council would not be able to enforce this requirement – least of all the detailed breakdown of how many hours a licensed driver should work before taking a break of so many minutes, and so on. On at least four occasions over the past two decades the EU has tried to impose the 48-hour Working Time Directive on members of the UK taxi and private hire industry, including shift patterns, so many hours off between shifts, and similar restrictions as applied to drivers in the bus, coach and truck industry. This has been defeated on every occasion, for the basic reason that taxi and PHV drivers do not work with tachographs; therefore their working patterns are neither recordable nor traceable.

It is clear to see that your council wishes to ensure that drivers do not suffer with fatigue from working long shifts, thus putting passengers at risk. This is more difficult to enforce on independent hackney carriage drivers, as many have their own businesses and are not on radio circuits. However, perhaps it is worth considering the option taken by many of the larger private hire operators in the UK, in that they self-regulate the hours their drivers work by setting reasonable shift patterns. Paul McLaughlin of Delta Taxis in Merseyside would be more than willing to provide advice on this point.

Tinted windows: It is well documented that we have raised this issue on many occasions with your council, and we see that you are “sticking to your guns” on the matter. Please find attached, yet again, the e-correspondence between myself and the Department for Transport, in which the DfT confirms the fact that, under section 32 of the Construction and Use Regulations 1986, the exclusion of any windows behind the door pillar in respect of any sort of light restriction is evident – and has been there from the outset. The rear windows could be painted over, and not violate the regulation.

So the DfT, officers from the DVSA (VOSA as was), and anybody else we have spoken to on the matter all agree: light penetration can be 75 per cent through the windscreen, 70 per cent through the side passenger windows, and **no restriction** on any of the windows behind the door pillar. It is strongly submitted that if your council maintains the 70 per cent light restriction across the back windows of any vehicle being considered for licensing as a taxi or PHV – or indeed makes the proprietor remove any back windows and replace them with different windows at great expense – this position would be eminently challengeable through the courts.

The following is from the 2010 DfT Best Practice guidance document: *“The minimum light transmission for glass **in front of, and to the side of, the driver is 70 per cent**. Vehicles may be manufactured with glass that is darker than this fitted to windows reward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as **the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations**.”* [Our emphasis]

Section 165/167 Equality Act 2010: We note that in Appendices D and E of the consultation document, it states that as a private hire driver condition and hackney carriage driver code of conduct, drivers must conform to the duties under the Act if their vehicle is on the council’s (not mandatory but voluntary) “designated list” of wheelchair accessible vehicles. However, your consultation then states that **“This requirement is also applicable to wheelchair accessible vehicles which are not on the ‘designated list’.”**

Both the National Association of Licensing and Enforcement Officers, and the Local Government Association, disagree with this position. In fact the LGA states in their latest “Taxi and PHV Licensing – Councillors’ Handbook” published in August 2017: *“The new provisions give councils the power, although not a duty, to maintain a statutory list of designated wheelchair accessible vehicles they license that meet ‘such accessibility requirements as the licensing authority thinks fit’. Where councils opt to do so, drivers of taxis and PHVs designated as being wheelchair accessible must comply with the requirements of section 165... unless they have been issued with an exemption certificate.”* There is no reference to vehicles that are not on the designated list, although the LGA recommends that licensing authorities publish the

statutory list as it “sends out a strong signal to the trade locally that they are expected to follow access requirements.”

The point here is that, unless a specific vehicle is on the council’s designated list, you cannot enforce the requirements under section 165 on those drivers. Surely the solution would be to include each and every wheelchair accessible vehicle in the district on the council’s designated list; then there would be no doubt that all drivers/proprietors would have to adhere equally to the requirements of the Act.

Training: May we go on record as stating that this Association is a firm believer and supporter of industry training; in that respect we assisted in writing the current BTEC level 2 VRQ (of which more later) and its predecessor, along with overseeing the content with the relevant Government body when the qualification was first established. Further, we are well aware of the current and future requirements that all licensed drivers should undertake disability awareness training; this is crucial considering the bringing in of sections 165 and 167 of the Equality Act as Regulations.

However, we must advise you that the status of the current BTEC is under review; its existing version is no longer being made available after December 2017, and no provision is being made for any Sector Skills Council to provide a further qualification. We mention this as it may well be prudent not to mandate any specific qualification until such time as we know the position going forward on industry training programmes.

I have recently been invited by the Minister of Transport, Rt Hon John Hayes MP, to join a Task and Finish Group on taxi and private hire licensing; the first meeting of this group is to take place in September. The issue of training will be quite near the top of the agenda, if not first on the list.

CCTV in taxis and PHVs: In the same way that your policy quite correctly states that private hire vehicles do not have to have meters but if they do, they must be calibrated to the company’s fare structure, we note that you have left in-car CCTV as an option for licensed vehicles. However, you then present quite strict parameters for their use. Two points here: might those parameters put off licence holders from purchasing and using CCTV equipment; and also, you may have a problem with the audio requirement. It might be a good idea to check out the Southampton case of three years ago in this respect.

Reporting of accidents: Your proposals state at Appendices D and E: “If at any time a driver is involved in an accident, however minor, the driver must inform the Council of this fact as soon as possible and in any event within 1 working day (by telephone or email).” Again, this requirement goes beyond that set out in the Local Government (Miscellaneous Provisions) Act 1976, section 50(3): “...the proprietor of a hackney carriage or a private hire vehicle licensed by a district council shall report to them as soon as reasonably practicable, and **in any case within seventy-two hours... any accident to such... vehicle causing damage materially affecting the safety, performance or appearance of the... vehicle...**”

We would ask you to consider that “however minor” an accident might be, it may well only involve a small dent in the bumper or a non-penetrable scrape to the paintwork; and if the vehicle proprietor had the damage repaired within the 72 hours required by the legislation he/she need not trouble the council with such a report.

Fire extinguishers and first aid kits: This Association has queried this requirement many times with many councils, mainly for Health and Safety reasons. We were advised by the Fire Brigade some time ago that, in the event of a vehicle fire, the driver's first priority should not be to put the fire out, but to remove the passengers to safety. The positioning of a fire extinguisher in the vehicle – many of which extinguishers a lot of drivers do not know how to use, incidentally – has led on many occasions to the passenger using it as a weapon against the driver. We know of one council that insisted the fire extinguisher was not only of a specific type and model, but that it had to be acquired from one of two local stockists. When we contacted the stockists, neither of these sold the extinguisher specified by the council.

As for first aid kits, the Health and Safety Executive advised us that the presence of a first aid kit in a licensed taxi or PHV is purely for the use of the driver him/herself; it is not intended to be used by that driver to administer first aid to the passenger(s), as most drivers are not trained in this field.

Points based enforcement scheme: The consultation document introduces this proposal at Appendix S as a method of dealing with "less serious breaches of licence conditions or legislation". This system of enforcement is endorsed fully by the Local Government Association – provided that the points administered do not fall under double jeopardy, whereby the licence holder is meted punishment for a particular offence by the courts, followed by the issuing of local council penalty points under this scheme for the same offence.

It is noted that whilst the document introduces the generic proposal of the scheme, there is no list provided (unless we missed it in going through the document) to illustrate the number of points that would be issued depending upon which offence was committed. Normally this type of list is made available for all to see.

On the general subject of penalty point schemes, we attach to this response a series of questions which were posed by our lawyers in respect of these schemes, and would ask whether such questions were given consideration when the scheme was first put forward.

On a final point, frankly there were quite a few more queries we wanted to raise in this response but time prevented this from happening. Our members are submitting their own personal responses to this consultation as well; we ask that you give sufficient consideration to all responses received, and that you reply to this response as soon as possible so that we may advise our members.

Thank you for your time and consideration.

Yours faithfully

For **THE NATIONAL PRIVATE HIRE AND TAXI ASSOCIATION**

Donna D Short

(Mrs) DONNA D SHORT

Director

donnadale.npha@btconnect.com

cc: Simon Myers – Chair, Licensing Committee
Deborah Bragg – Licensing Manager

Hi Donna,

Tinted Windows

I took your query on this (and my initial view, as per the email below) to DfT's International Vehicle Standards Team, who in turn checked it with the VCA.
(<http://www.dft.gov.uk/vca/>)

The VCA official who replied told me that in his opinion I was interpreting the requirements of Construction & Use (C&U) correctly, and that Gov.uk is correct on the matter.

This the relevant extract from C&U:

"C & U - View to the front

30.—

(1) Every motor vehicle shall be so designed and constructed that the driver thereof while controlling the vehicle can at all times have a full view of the road and traffic ahead of the motor vehicle.

(2) Instead of complying with the requirement of paragraph (1) a vehicle may comply with Community Directive 77/649, 81/643 or, in the case of an agricultural motor vehicle, 79/1073.

(3) All glass or other transparent material fitted to a motor vehicle shall be maintained in such condition that it does not obscure the vision of the driver while the vehicle is being driven on a road.

32.—

(1) This regulation applies to—

(a) a caravan first used on or after 1st September 1978, and

(b) a wheeled motor vehicle and a wheeled trailer, not being a caravan, first used on or after 1st June 1978.

(2) Save as provided in paragraphs (3) to (9) the windows specified in column 2 of Table I in relation to a vehicle of a class specified in that column shall be constructed of the material specified in column 3 of that Table.

(10) Save as provided in paragraph (11), the windscreens or other windows constructed in accordance with the foregoing provisions of this regulation of specified safety glass, specified safety glass (1980) or safety glazing and specified in column 3 of Table II in relation to a vehicle of a class specified in column 2 of that Table shall have a visual transmission for light of not less than the percentage specified in relation to those windows in column 4 when measured perpendicular to the surface in accordance with the procedure specified in a document specified in relation to those windows in column 5.

[note: the table sits here]

(11) Paragraph (10) does not apply to—

(a) any part of any windscreen which is outside the vision reference zone;

(b) windows through which the driver when in the driver's seat is unable at any time to see any part of the road on which the vehicle is waiting or proceeding;"

Highlighted in green is the C&U provision that dis-applies the light transmission limits for rear windows.

Highlighted in yellow, you can see that the C&U regs allow (in respect of field of vision) a vehicle to comply with "Community Directive 77/649" instead, and this is the relevant extract provided to me:

"77/649/EEC - 90/630/EEC Consolidated

Forward vision

1. SCOPE

1.1. This Directive applies to the 180° forward field of vision of the drivers of vehicles in category M1.

Regulation No. 125 (this regulation replaces 77/649/EEC)

UNIFORM PROVISIONS CONCERNING THE APPROVAL OF MOTOR VEHICLES WITH REGARD TO THE FORWARD FIELD OF VISION OF THE MOTOR VEHICLE DRIVER

1. SCOPE [LS-2]

1.1. This Regulation applies to the 180° forward field of vision of drivers of category M1 vehicles 1/.

1.2. Its purpose is to ensure an adequate field of vision when the windscreen and other glazed surfaces are dry and clean."

VCA noted that that this directive would have originally been used for Type Approval of the vehicle and that it does not consider the rear passenger windows as affording the driver any view to the road. The ocular point for this test will always be fixed in front of the B pillars otherwise manufacturers would be non-compliant to the type approval requirements. Therefore, any windows fitted behind this point are out of scope of both the view of the road and the light transmission requirements listed in C&U regulation 32 and also ECE Regulation 43.

I would add – and this wasn't in the confirmation that VCA sent me – that it surely makes no logical sense to have tinting limits on rear windows, fully behind the driver's 180 degree forward vision, when it's entirely legal to drive vans (right down to the size of, say, a Ford Fiesta van) with no rear windows at all.

I hope this is helpful – let me know how this goes, if you can.

Chris

Chris Brown | Senior Policy Advisor, Buses and Taxis Division, Department for Transport

HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES/DRIVERS/OPERATORS - PROPOSED PENALTY POINTS SYSTEM

1. What documentary evidence is available to support the council's assertion that a penalty points system is reasonably necessary? Please provide details/copies of that evidence.
2. If the penalty points system is introduced, will the council take a signed proof of evidence from every complainant and witness(es)?
3. Will there be a written "charge" which will include all the details of the alleged misdemeanor?
4. If the penalty points system is introduced, will the council interview the licence holder in accordance with the provisions of PACE 1984?
5. Will the provisions of the PACE 1984 be adhered to, when investigating complaints of alleged misconduct and alleged criminal offences?
6. How will the gravity of the alleged misdemeanor(s) be determined?
7. Who will determine the gravity of the alleged misdemeanor(s)?
8. Will there be sub-categories of misdemeanors?
9. If alleged misdemeanor(s) are committed towards the end of years 1, 2 and 3 will the penalty points be carried forward to years 4, 5 and 6?
10. Will there be a "first hearing"? If yes, please provide details; if not, why not?
11. Who will act as Prosecutor?
12. Who will hear the complaint?
13. Who will determine the complaint?
14. Who will advise the council on legal issues during the -
 - a. Investigation?
 - b. First hearing?
 - c. Appeal to the committee?
15. Will the "Rules of Evidence" apply? If not, why not?
16. What defences will be available to the licence holder? Please provide precise details for each category of misdemeanor.

17. If a licence holder has no other alternative than to appeal to the sub-committee:-
 - a. What time period will he or she be given in which to lodge an appeal?
 - b. Will he or she be able to continue in business in the same way as under section 77 of the Local Government (Miscellaneous Provisions) Act 1976?
 - c. Will the council pay the Appellant's costs?
 - d. Will the licence holder be entitled to free legal advice from the outset?
18. Will the complainant(s) be "compellable" to attend the First/Appeal hearing, give oral evidence, and be open to cross examination? If not, why not?
19. Will prosecution witnesses be compellable to attend the First/Appeal hearing, give oral evidence, and be open to cross examination?
20. Will the investigating officer(s) be "compellable" to attend the First/Appeal hearing, give oral evidence, and be open to cross examination? If not, why not?
21. Will the council supply the licence holder or his/her legal advisers with evidence by way of advance disclosure? If not, why not?
22. What will be the Mens Rea of each alleged misdemeanor?
23. What standard of proof will be relied upon?
24. What are the "definitions" of the categories of each misdemeanor?
25. What is the council's legal basis for the imposition of such a system?
26. Can the council give assurances that the rules of natural justice will be observed? If assurances can be given, please provide details.
27. Why does the council feel it is necessary for them to perform a purely judicial function, thereby usurping the role of the courts?
28. How will potential complainants be informed that such a system operates in their area?
29. Does the council fear that there will be spurious complaints? If not, why not?
30. Please provide details of the discretion that will be entrusted to an enforcement office when deciding whether or not to issue penalty points. Will

there be written criteria and/or guidelines to which he or she will have to adhere? If not, why not?

31. Is the council saying that the accumulation of ten or more penalty points is "reasonable cause" for which to suspend or revoke a licence, and not the individual offences themselves? That being the case, would not the licence holder have to appeal all of the alleged "offences" to the magistrates court at first instance, in order to determine whether or not the council had reasonable cause to suspend, revoke or refuse to renew a licence?
32. Is there not a risk of double jeopardy? If not, why not?
33. Is there not a real likelihood of bias? If not, why not?
34. Is there not a real risk of an intermingling of functions? If not, why not?

HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES/DRIVERS/OPERATORS - PROPOSED PENALTY POINTS SYSTEM

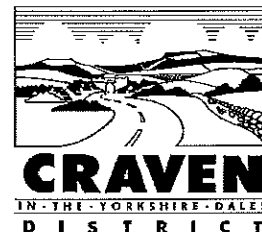
1. What documentary evidence is available to support the council's assertion that a penalty points system is reasonably necessary? Please provide details/copies of that evidence.
2. If the penalty points system is introduced, will the council take a signed proof of evidence from every complainant and witness(es)?
3. Will there be a written "charge" which will include all the details of the alleged misdemeanor?
4. If the penalty points system is introduced, will the council interview the licence holder in accordance with the provisions of PACE 1984?
5. Will the provisions of the PACE 1984 be adhered to, when investigating complaints of alleged misconduct and alleged criminal offences?
6. How will the gravity of the alleged misdemeanor(s) be determined?
7. Who will determine the gravity of the alleged misdemeanor(s)?
8. Will there be sub-categories of misdemeanors?
9. If alleged misdemeanor(s) are committed towards the end of years 1, 2 and 3 will the penalty points be carried forward to years 4, 5 and 6?
10. Will there be a "first hearing"? If yes, please provide details; if not, why not?
11. Who will act as Prosecutor?
12. Who will hear the complaint?
13. Who will determine the complaint?
14. Who will advise the council on legal issues during the -
 - a. Investigation?
 - b. First hearing?
 - c. Appeal to the committee?
15. Will the "Rules of Evidence" apply? If not, why not?
16. What defences will be available to the licence holder? Please provide precise details for each category of misdemeanor.

17. If a licence holder has no other alternative than to appeal to the sub-committee:-
 - a. What time period will he or she be given in which to lodge an appeal?
 - b. Will he or she be able to continue in business in the same way as under section 77 of the Local Government (Miscellaneous Provisions) Act 1976?
 - c. Will the council pay the Appellant's costs?
 - d. Will the licence holder be entitled to free legal advice from the outset?
18. Will the complainant(s) be "compellable" to attend the First/Appeal hearing, give oral evidence, and be open to cross examination? If not, why not?
19. Will prosecution witnesses be compellable to attend the First/Appeal hearing, give oral evidence, and be open to cross examination?
20. Will the investigating officer(s) be "compellable" to attend the First/Appeal hearing, give oral evidence, and be open to cross examination? If not, why not?
21. Will the council supply the licence holder or his/her legal advisers with evidence by way of advance disclosure? If not, why not?
22. What will be the Mens Rea of each alleged misdemeanor?
23. What standard of proof will be relied upon?
24. What are the "definitions" of the categories of each misdemeanor?
25. What is the council's legal basis for the imposition of such a system?
26. Can the council give assurances that the rules of natural justice will be observed? If assurances can be given, please provide details.
27. Why does the council feel it is necessary for them to perform a purely judicial function, thereby usurping the role of the courts?
28. How will potential complainants be informed that such a system operates in their area?
29. Does the council fear that there will be spurious complaints? If not, why not?
30. Please provide details of the discretion that will be entrusted to an enforcement office when deciding whether or not to issue penalty points. Will

there be written criteria and/or guidelines to which he or she will have to adhere? If not, why not?

31. Is the council saying that the accumulation of ten or more penalty points is "reasonable cause" for which to suspend or revoke a licence, and not the individual offences themselves? That being the case, would not the licence holder have to appeal all of the alleged "offences" to the magistrates court at first instance, in order to determine whether or not the council had reasonable cause to suspend, revoke or refuse to renew a licence?
32. Is there not a risk of double jeopardy? If not, why not?
33. Is there not a real likelihood of bias? If not, why not?
34. Is there not a real risk of an intermingling of functions? If not, why not?

Licensing Committee – 19 September 2017



REVIEW OF TAXI FARES

Report of the Licensing Manager

Ward(s) affected: All

1. **Purpose of Report** – On 24 July 2017 a request was received from a taxi proprietor for the fares applicable to Hackney Carriages to be reviewed to include a further charge that can be applied to journeys which take place within Craven in certain circumstances.
2. **Recommendations** –

Members are asked to authorise
 - 2.1 the Licensing Manager to consult on the proposed amendment to the fares tariff as set out at Appendix B to include a 'Call Out Charge' and 'Soiling Charge' and
 - 2.2 The proposed fares take effect from 9 October 2017 (provided that no objections to the proposals are received).
3. **Report**
 - 3.1 Section 67 of the Local Government (Miscellaneous Provisions) Act 1976 allows a Hackney Carriage to also be used a Private Hire Vehicle.
 - 3.2 With regards to Private Hire Operators, Drivers and Vehicles - these licence holders are able to set their own fares and charge the customer effectively what they like as long as the fare has been agreed between the driver or operator before the journey commences.
 - 3.3 Hackney Carriage fares on the other hand are set by the Local Authority and are made under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976. It is an offence under Section 58 of the Town Police Clauses Act 1847 to charge more than the fare shown on the meter plus any legitimate extras. A Hackney Carriage Driver must not turn the meter on until such time as the passenger is collected.
 - 3.4 The Table of Fares set by the Local Authority applies to any journey undertaken by a Hackney Carriage regardless of whether the journey is pre booked or hailed in the street or on a Hackney Carriage Rank.
 - 3.4 Under Section 54 of the same Act it is allowable for an agreement to be made in advance of the hiring of a hackney carriage for a sum less than that shown at the end of the hiring to be paid. Section 55 however outlaws any agreement to pay more than the fare shown on the meter, irrespective of what may have been agreed beforehand.

- 3.5 It has come to the attention of the Licensing Manager that it has been custom and practice for many years for companies operating Hackney Carriages to agree fares with passengers which are over and above the metered fare where the driver has to travel a substantial distance to collect the passenger then only take them on a relatively short journey.
- 3.6 Examples of such journeys which have been given in explanation of this practice are picking up in Threshfield to take passenger to Grassington a journey of only a mile or so but the driver has had to come from Skipton Town Centre. Another journey is from Premier Inn at Gargrave to The Coniston Hotel. These journeys if calculated on the meter would be around £3.00 or £4.00 whereas in the case of the latter journey customers are charged between £12.00 and £15.00.
- 3.7 As a result of this unlawful practice coming to light, the Licensing Manager wrote to all drivers and advised the following:-

The Council is in receipt of an increasing number of complaints from the public about the fares being charged, mainly through journeys which are booked over the telephone. You are reminded that you are not able to charge a customer more than what would be on the meter. If you have a Hackney Carriage Drivers Licence you are not able to:

- *agree a fare which would be more than the metered rate (even where you are undertaking private hire work);*
- *charge a customer for the outward journey i.e. for the journey before a passenger gets in the vehicle;*

I am aware that the practice of charging customers through a pre booking more for certain journeys which are deemed to be 'not worth doing' because of the travel time to pick the passenger(s) up or length of journey required has been going on for some time, however this is illegal and the Licensing Authority will be taking action against any driver found to have overcharged customers in this way. This includes prosecution in the Magistrates Court and referral to the Licensing and Appeals Sub Committee which could result in the revocation of your licence.

- 3.4 The legislation is quite clear - Section 67 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

Hackney Carriages used for Private Hire

(1) No hackney carriage shall be used in the district under a contract or purported contract for private hire except at a rate of fares or charges not greater than that fixed by the byelaws or tables mentioned in section 66 of this Act, and, when any such hackney carriage is so used, the fare or charge shall be calculated from the point in the district at which the hirer commences his journey.

(2) Any person who knowingly contravenes this section shall be guilty of an offence.

(3) In subsection (1) of this section "contract" means—

(a) a contract made otherwise than while the relevant hackney carriage is plying for hire in the district or waiting at a place in the district which, when the contract is made, is a stand for hackney carriages appointed by the district council under section 63 of this Act; and

(b) a contract made, otherwise than with or through the driver of the relevant hackney carriage, while it is so plying or waiting.

3.5 In addition to the letter, the Licensing Manager has been in dialogue with representatives of the trade in order to understand how and why this practice, in direct contravention of the legislation, has developed. It has become clear the rural nature of the District means that Hackney Carriage Drivers consider that it is not financially viable for them to carry out some journeys, in particular where the travel to pick up the passengers is some distance away (from the main area in which the driver operates – usually Skipton) and take them on the journey they wish to take. During these discussions it has been reiterated what options are available to the trade; in relation to fares.

3.6 These options are: -

- i. ask for a fare review,
- ii. become Private Hire (Driver, Vehicle and Operator Licences required) then they set their own tariff as the Licensing Authority does not set the fares for Private Hire or
- iii. comply with the requirements of the legislation.

3.7 As a result of these discussions a Hackney Carriage Proprietor has formally requested a fare review so that a "call out charge" can be charged in specified circumstances.

3.8 The Licensing Manager has carried out research looking at what fares tariffs are in place in other Local Authority Areas which are predominantly rural and where substantial distances may have to be travelled from a main town in that area to outlying villages in order to fulfil bookings. In some of these areas a 'Call Out Charge' is included on the fare tariff or a 'Booking Fee'.

3.9 Ryedale District Council is a Local Authority area which covers a predominantly rural area similar to Craven. Included in their Hackney Carriage Tariff is a 'call out charge'. This charge is £12.00 on Tariff 1 and £15.00 on Tariff 2.

3.10 Attached at Appendix A is the current fares table for Craven which was last reviewed on 14 June 2012.

3.11 Attached at Appendix B is a revised fares table which would include a 'Call Out Charge' which could be charged in circumstances which fell into the journey categories described. These charges have been applied to all Tariffs with a proposed maximum of £10.00 being applicable to Tariff 1 and a proposed maximum of £12.00 to all other Tariffs. In addition it could only be charged if agreed with the hirer at the time of booking and they are aware of the reasons why it has been applied. In all cases a lower charge can be agreed.

- 3.12 By including a 'call out charge' on the tariff it will encourage a rural taxi service as there are only a handful of Private Hire Operators covering the whole of the Craven District. If Hackney Carriages decline work that they feel is financially unviable for them to undertake then residents who live in rural or remote areas are not being given access to public transport other than buses or trains which only serve these communities on a limited basis and not 24 hours a day. A call out charge is designed to attract a better service for our rural residents.
- 3.10 In addition a 'Soiling Charge' has been included so that drivers and passengers are aware that if a vehicle has to be taken off the road for example because a passenger is sick in the car, then the driver can make a charge for the inconvenience that would be caused to him/her by having to stop working and get the vehicle cleaned before being able to work again. Where a 'Soiling Charge' is not included it can become a contentious subject should an incident occur and a passenger feels that they are being 'ripped off' by a driver – including this would minimise this risk. This charge is also a maximum so a lower charge could be agreed.
- 3.11 The trade have not asked for a revision in any of the other charges.
- 3.12 The consultation process is laid down under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 and is as follows:-
- (1) A district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section.
 - (2)(a) When a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which and the manner in which objections to the table of fares or variation can be made.
 - (b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice, and shall at all reasonable hours be open to public inspection without payment.
 - (3) If no objection to a table of fares or variation is duly made within the period specified in the notice referred to in subsection (2) of this section, or if all objections so made are withdrawn, the table of fares or variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

- (4) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections.
- (5) A table of fares made or varied under this section shall have effect for the purposes of the Act of 1847 as if it were included in hackney carriage byelaws made thereunder.
- (6) On the coming into operation of a table of fares made by a council under this section for the district, any hackney carriage byelaws fixing the rates and fares or any table of fares previously made under this section for the district, as the case may be, shall cease to have effect.
- (7) Section 236(8) (except the words "when confirmed") and section 238 of the Local Government Act 1972 (except paragraphs (c) and (d) of that section) shall extend and apply to a table of fares made or varied under this section as they apply to byelaws made by a district council.

Implications

- 4.1 **Financial Implications** – The cost of placing the advertisement in the Craven Herald is approximately £623.20. The cost of such a notice is recoverable as part of the Hackney Carriage licence fee.

Legal Implications –The report sets out the procedure for setting fares for Hackney Carriages in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Authority, in specifying fares, sets the maximum an individual can chose to charge a lower amount if they wish.

It is an offence, for which the Licensing Authority may prosecute, for a Hackney Carriage Driver to charge a sum higher than the applicable tariff set by the Licensing Authority.

- 4.2 **Contribution to Corporate Priorities** – Promoting the wellbeing of Craven's communities
- 4.4 **Risk Management** – The Licensing Manager has stated in discussions with the trade that Hackney Carriage Drivers charging higher than the applicable tariff is unlawful. If a Call Out Charge is not agreed there is a risk that Hackney Carriage Drivers will not undertake Private Hire work in outlying villages for financial reasons which will result in a lack of service for our rural residents.

- 4.5 **Equality Impact Assessment** –The Council's Equality Impact Assessment Procedure **has not been** followed. Therefore neither an Initial Screening or an Equality Impact Assessment has been undertaken on the proposed policy, strategy, procedure or function to identify whether it has/does not have the potential to cause negative impact or discriminate against different groups in the community based on •age • disability •gender • race/ethnicity • religion or religious belief (faith) •sexual orientation, or • rural isolation.
5. **Consultations with Others** – Enquiries made with local authorities about fare tariffs.
6. **Access to Information : Background Documents** – Sections 65 and 67 Local Government (Miscellaneous Provisions) Act 1976
7. **Author of the Report** – Deborah Bragg – Licensing Manager 01756 706343

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Appendices – Appendix A – Current Fares Tariff agreed 14 June 2012

Appendix B – Proposed Fares Tariff

Appendix A.

Craven District Council

Hackney Carriages TABLE OF FARES (From 14th June 2012)

Tariff 1 – 0600 hrs to Midnight

Up to 1 st 838 yards	£3.00p
Each subsequent 117.6 yards.....	10p
Waiting time per minute	17p

Tariff 2 – Midnight to 0600 hrs

Up to 1 st 838 yards	£3.30p
Each subsequent 196.6 yards	20p
Waiting time per minute	17p

Tariff 3 – 1800 hrs on Christmas Eve until 0600 hrs on the 27 December and from 1800 hours New Years Eve until Midnight on New Years Day

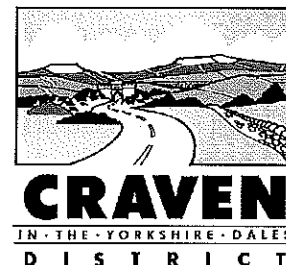
Up to 1 st 838 yards	£4.21p
Each subsequent 143.2 yards	20p
Waiting time per minute	17p

Tariff 4 – Vehicles when carrying 5 or more passengers

Up to 1 st 838 yards	£4.00p
Each subsequent 156.9 yards	20p
Waiting time per minute	24p

The above apply to all journeys within Craven District and to journeys over the District boundary, unless agreed otherwise prior to hiring.

Appendix B



Section 65 Local Government (Miscellaneous Provisions) Act 1976

Notice is hereby given that as a request of the Hackney Carriage Proprietors, Craven District Council are to amend the table of fares for licensed Hackney Carriages as set out below:-

TABLE OF FARES

Tariff 1 – 0600 hrs to Midnight

Up to 1 st 838 yards	£3.00
Each subsequent 117.6 yards.....	10p
Waiting time per minute	17p
Call out charge – Maximum to be added to any one journey at any one time	£10.00

Tariff 2 – Midnight to 0600 hrs

Up to 1 st 838 yards	£3.30
Each subsequent 196.6 yards	20p
Waiting time per minute	17p
Call out charge – Maximum to be added to any one journey at any one time	£12.00

Tariff 3 – 1800 hrs on Christmas Eve until 0600 hrs on the 27 December and from 1800 hours New Years Eve until Midnight on New Years Day

Up to 1 st 838 yards	£4.21
Each subsequent 143.2 yards	20p
Waiting time per minute	17p
Call out charge – Maximum to be added to any one journey at any one time	£12.00

Tariff 4 – Vehicles when carrying 5 or more passengers

Up to 1 st 838 yards	£4.00
Each subsequent 156.9 yards	20p
Waiting time per minute	24p
Call out charge – Maximum to be added to any one journey at any one time	£12.00

Call Out Charge

This charge can only be applied if it is agreed with the hirer before the journey is booked and the hirer is aware of the reasons it has been applied.

Soiling Charge

A maximum soiling charge of £50.00 is payable to cover cleaning the vehicle and loss of earnings when a passenger(s) soils a vehicle by whatever means.

The meter must be engaged for each and every journey, whether the vehicle has been pre-booked or not. The driver cannot charge in excess of this table of fares for any journey with the Craven District.

If the hiring takes the journey outside the District of Craven, the driver cannot charge more than this table of fares allows unless a fare has been agreed with the hirer before the commencement of the journey.

These are maximum charges and drivers are permitted to negotiate a fare provided they do not charge any more than the table of fares allows.

It is proposed that the above fares and charges will take effect from xxxxxx 2017

Should any person wish to make objections to the above fares and charges taking effect, they should put their objections in writing addressed to the person named below, as soon as practicable, and in any case before xxxxx 2017

Ms Deborah Bragg – Licensing Manager
Craven District Council, 1 Belle Vue Square, Broughton Road, Skipton,
North Yorkshire BD23 1FJ

dbragg@cravenc.gov.uk

Licensing Committee – 19 September 2017



NATIONAL LICENSING MATTERS: UPDATE

Report of Solicitor

Ward(s) affected: All

1. **Purpose of Report** – To provide Members with a general update on national licensing matters.
2. **Recommendations** – Members are recommended to note the report.
3. **National Licensing Matters Updates**
 - i. **Appendix A: Taxi & Private Hire Working Group**
briefing note attached
 - ii. **Appendix B: Gambling Commission Report**
briefing note attached
 - iii. **Appendix C: Challenge to Intended Use Policy**
briefing note attached
 - iv. **Appendix D: Competition and Markets Authority Guidance**
briefing note attached
 - v. **Appendix E: Hemmings case**
briefing note attached
4. **Implications**
 - 4.1 **Financial and Value for Money (vfm) Implications**
None arising directly from this report
 - 4.2 **Legal Implications**
None arising directly from this report.
 - 4.3 **Contribution to Council Priorities**
Not applicable
 - 5.2 **Risk Management**
Not applicable

4.4 Equality Impact Assessment

Not applicable.

5. Consultations with Others

None

6. Access to Information : Background Documents

None

7. Author of the Report

Lisa Lord, Solicitor

Telephone: 07701 399979; e-mail: LLord@Cravendc.gov.uk

Note : Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

APPENDIX A

Taxi & Private Hire Working Group

1. The Government has announced the creation of a new Taxi & Private Hire working group.
2. According to reports by the Local Government Association; "The objective of the task and finish group will be to make recommendations for actions to address priority issues in this area. In particular the group will focus on identifying what the priority concerns around regulation are and the adequacy of licensing systems to address these, as well as looking at Law Commission's recommendations. It is anticipated that the first meeting will be in September with a view to developing a report on their advice/recommendations before the end of the year."
3. Members will recall that the Law Commission reviewed the legal framework relating to taxis and private hire vehicles across England and Wales with a view to making it simpler and more modern. The Commission's final report and draft Bill were published on 23 May 2014. A response from the Government is still awaited.
4. It appears that establishing the new taxi & Private Hire working group is the first step in providing the Government's response to the Law Commission report.

Next steps

5. Further updates from the Taxi & Private Hire Working Group will be reported to Members as they come forward.

Lisa Lord

Solicitor, 07 September 2017

APPENDIX B

Gambling Commission Report

1. The report prepared by NatGen Social Research provides, for the first time since 2010, a comprehensive analysis of gambling across all nations of Great Britain - examining the rates of participation, at-risk gambling and problem gambling, and explores the associated characteristics and behaviours. The report was published in August 2017.
2. A copy of the report can be found at <http://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>
3. Source data was combined from the Health Survey for England 2015, the Scottish Health Survey for England 2015 and the Wales Omnibus in 2015.
4. The Gambling Commission identified the following key findings:
 - 1.4% of gamblers were classed as problem gamblers (0.8% of the population), with 6.4% at-risk (3.9% of the population) – which is similar to the rate published in a 2012 report;
 - Problem gambling was more prevalent among people who had participated in a multiple gambling activities in the past year, than those that had just participated in one;
 - 63% of adults (aged 16 and over) in Great Britain had gambled in the past year.
 - Men (66%) are more likely to gambling than women (59%);
 - Most popular gambling activities were: National Lottery draws (46%), scratchcards (23%) and other lotteries (15%);
 - Overall participation was highest among the middle age groups and lowest among the youngest and oldest age groups; and
 - Those in employment or training were more likely to gamble (69%). Participation by those unemployed was at 56% and 57% for those retired.
5. Following publication of the latest report, the Gambling Commission has called for a 'renewed focus' on addressing gambling associated harms.

Lisa Lord

Solicitor, 07 September 2017

APPENDIX C

Challenge to intend use policy

1. A private hire business has applied to judicially review Knowsley Borough Council's 'Intended Use Policy', which requires drivers who obtain their licences in the borough to operate "predominantly in Knowsley".
2. Representatives of the private hire business state: "The governing legislation (LGMPA 1976) does not limit the geographical area in which a licensed PHV driver may operate. Long-standing case law has held that a driver who is licensed in controlled district 'A' may lawfully operate outside that district anywhere in the UK.
3. In addition to the ultra vires arguments, a lively discussion is anticipated as to the meaning of 'predominantly'.

Next Steps

4. The outcome of the challenge will be reported to Members for consideration of any consequences for the Council.

Lisa Lord

Solicitor, 07 September 2017

APPENDIX D

Competition and Markets Authority Guidance

1. The Competition and Markets Authority has written an open letter to all licensing authorities to help them in understanding the effect certain licensing conditions can have on competition and passenger welfare.
2. A copy of the letter is attached for Members information.

Next steps

3. The Guidance will be applied to the proposed new Taxi Licensing Policy and the outcome will be reported to Members.

Lisa Lord

Solicitor, 07 September 2017

Head of Licensing

From: John Kirkpatrick
Senior Director, Advocacy

19 June 2017

Dear Head of Licensing,

Guidance on the impact of taxi and private hire licensing on competition and consumer welfare

The Competition and Markets Authority (CMA) is the UK's primary competition and consumer authority, and has a statutory duty to promote competition for the benefit of consumers. The Enterprise Act 2002 gives the CMA the function of making proposals or giving information or advice to any public authority on matters relating to any of its functions. HM Treasury has asked the CMA to consider how local authorities "can support competition and challenge them when they do not"¹.

Hackney carriage (taxi) and private hire licensing conditions play a crucial role in ensuring that passengers are treated fairly, and that passengers and other road users are safe. However, the CMA's experience of competition in markets and how it can enhance consumer welfare shows that some licensing conditions may restrict or distort competition, potentially resulting in passengers paying higher fares or receiving a lower quality of service. Conditions most likely to reduce passenger welfare are ones which forbid aspects of service that passengers value, which specify to a high degree the nature of the service to be provided, which limit the number of providers in a market, or which restrict the ability of drivers to work for more than one operator. As licensing authorities seek to strike the right balance between safety and consumer welfare, they might like to consider whether the objectives behind such conditions might be achieved in ways that are less likely to reduce the welfare of passengers.

The CMA has produced guidance for all licensing authorities in England and Wales to assist them in understanding the effect that various licensing conditions can have on competition and passenger welfare.

¹ HM Treasury's November 2015 competition plan: *A Better Deal*

The CMA's understanding of the taxi and private hire trades is informed by the OFT's 2003 Market Study of the regulation of taxi and private hire services, the OFT's 2007 evaluation of the 2003 market study, and the findings of the CMA's examination of a merger between private hire operators in Sheffield². The CMA has also undertaken a review of proposed and existing conditions imposed by licensing authorities on the taxi and private hire trades. As part of this review, the CMA has been in touch with licensing authorities where it considers that licensing conditions may undermine competition and the interests of passengers³. Following this review, we have produced a short report which is available on request.

The CMA has also produced general guidance on carrying out a competition impact assessment, which you may find useful when updating or reviewing taxi and private hire licensing conditions.

I or one of my team would be very happy to discuss any of these issues further, if helpful.

Yours faithfully,

John Kirkpatrick
Senior Director, Advocacy

² Sheffield taxis merger inquiry

³ In December 2015, the CMA responded to a TfL consultation, and in September 2016 the CMA wrote to Sheffield City Council about proposed licensing conditions.

APPENDIX E

Westminster Council has won a landmark Supreme Court licensing case to cover enforcement costs.

1. The Supreme Court has ruled in favour of Westminster City Council in a long running case on how licensing fees are charged. The original case was brought against the Council by the owner of the Simply Pleasures Ltd over licencing fees paid to operate a sex shop in Westminster. Members will recall that the judgment has implications for other licences not just those relevant to sex shops.
2. The Supreme Court has confirmed its original decision to overturn the Court of Appeal ruling on this case, Hemming (t/a Simply Pleasure Ltd) and others v Westminster City Council, in the councils favour.
3. After the original Court of Appeals decision the Council made repayments of over £1.3million to the licence holders, and the Supreme Court has ruled that these sums must be returned to the City Council, subject to the High Court ruling on any disputes about the exact amount.
4. The result means that council tax and business rate payers do not have to bear the burden of paying for licensing and enforcement charges which relate to the running costs of these establishments. Sex shop operators must now return to the process of paying their licence fees for the costs incurred to the Council in undertaking regulatory and enforcement activity.
5. The Supreme Courts judgement is available at:
<https://www.supremecourt.uk/cases/uksc-2013-0146.html>

Next Steps

6. The case affects the charges that can be applied to licences (not limited to sex shops) allowing the regulatory and enforcement costs to be recouped instead of just the administration costs of granting a licence.
7. Fees will be reviewed in order to ensure that all elements covered by the judgment are being recovered from the relevant licence holders. The results of the review will be provided to Licensing Committee when fees are set for licences.

Lisa Lord

Solicitor, 07 September 2017

