

## RESPONSE TO CONSULTATION EXERCISE

There have been 64 identical responses to the consultation exercise, all of which object to the proposed changes. Of the 64 responses, 16 are from licensed drivers only, i.e. persons who do not hold a vehicle licence. The remaining 48 responses are from vehicle proprietors who also hold driver licences. The responses are reproduced verbatim as follows with an Officer comment below each point raised.

**(NB – because the section of the policy relating to accessibility has been removed some of the paragraph references have been changed. This has been highlighted for ease of reference).**

“In response to the proposed changes ‘Private Hire and Hackney Carriage Licensing Policy DRAFT October 2009’.

All the proposed changes will carry some cost to the proprietors, companies or drivers, the country, world is currently experiencing a major recession, to force these changes and costs would have a severe impact on the taxi trade.

### Items of objection and concern are as follows”

#### 1. “7 objectives

The safety of the public is important and rightfully so; however this section fails to mention the safety of the drivers, consider that drivers are human and would also like to work in a safe environment”.

#### Officer Comment

The purpose of the licensing regime is the protection of the public. Section 7 sets out the objectives of this policy which is to provide a safe, reliable taxi service, to provide clarity for members of the Trade, to encourage high standards within the Trade and to encourage environmental sustainability. In response to the comment about driver safety the Council actively encourages drivers to protect themselves and welcomes installation of CCTV, glass screens etc in vehicles should trade members wish to go down this route.

#### 2. “62 Booking Records for Hackney Carriages

As a Hackney Carriage Proprietor pre booked fares are recorded however I see no reason to change our existing methods just for the sake of change”.

#### Officer Comment

The trade members have indicated that pre booked fares are recorded and therefore this should not be an undue burden on the Trade. Given that most pre booked fares are arranged with Companies such information would be required for any private hire fleet they operate and is likely to be required by other government agencies such as Revenue and Customs. Recording such fares will give an audit trail in the event of any incident or complaint.

3. **“69 Limitation of Numbers**

It is true that the number of taxis has reduced but this does not mean that there is enough work for those remaining. Relying on market forces only shows a lack of concern for the trade”,

Officer Comment

Any local authority that has a restriction on the number of hackney carriages they licence has to justify such a policy in writing every 3 years to the Department for transport. Before they are able to introduce such a policy a survey must be undertaken to show that there is not any significant demand for hackney carriages in the controlled district that is unmet. Such surveys are not only costly (in excess of £17,000) but must be based not only on waiting time at ranks but also on waiting time when attempting to hail a hackney carriage in the street. This is extremely difficult to undertake. Limitation on numbers also creates a “black market” value on taxi plates, often running into thousands of pounds. Given the information above and the fact that the number of hackney carriages in Darlington is actually decreasing there is no sound reason for attempting to limit numbers in Darlington.

4. **“Accessibility**

It would be premature for the council to force the issue when the government is still investigating this problem and could lead to further costs, the taxi trade is fully aware that changes are on the horizon and would prefer a more balanced approach based on a survey of disabled people’s needs. Please supply a copy of the disability survey”.

Officer Comment

This is now the subject of consultation with disabled people and will result in a separate trade consultation and report to Council in due course.

5. **“103 Vehicle and Meter Testing (NB now paragraph 88 onwards)**

There is no mention on the frequency for testing in the Measuring Instruments (Taximeters) Regulations 2006 this should be left to the individual businesses. The council has stated that it is council policy to follow Best Practice Guide, if this is true then alter current policy regarding frequency of vehicle testing (*an annual test may be appropriate for all vehicles and that more frequent tests may be appropriate for older vehicles and suggest twice yearly for vehicles more than 5 years old*”.

Officer Comment

Section 103 makes it clear that although the Best Practice Guidance suggests an annual vehicle test may be appropriate for all vehicles with twice yearly tests for vehicles over 5 years of age, it is not currently proposed to change the council’s policy of 2 tests per year for all vehicles given the high number of miles undertaken by “taxis” each year. This approach is common within the Tees Valley Authorities and indeed nationally. It is however proposed that an analysis of how many vehicles under the age of 5 years fail one or more tests a year will be undertaken for a one year period following the inception of the policy

document and if the number is negligible the policy will be revisited. With regard to the testing of taximeters the proprietor will be responsible for producing a certificate of calibration in respect of the taximeter at first licensing and at any subsequent change of tariff. The taximeter will be checked on an ad hoc basis to ensure that it has not been tampered with.

6. **“115 Vehicles and Stretched Limousine Novelty (NB now paragraph 100)**

Proprietors of vehicles have the right to determine the image of their company, if the council is to dictate this image by specifying a uniform then the council should supply the uniform”.

Officer Comment

Proprietors of limousines and executive hire vehicles may apply for special privileges such as a dispensation from having to display a plate or other vehicle signage. These vehicles are not used for ordinary public hire and generally proprietors advise that drivers are required to wear a form of uniform or at the very least a suit. The proposal that this should be a standard condition is to standardise the approach to licensing such vehicles. It should be noted that none of the 64 Trade Members who have objected to this requirement are the proprietors or drivers of such vehicles.

7. **“172 ISA (NB now paragraph 154 onwards)**

Is the council now proposing that in addition to the cost of the CRB check there will be an extra cost for the ISA. Please supply more information”.

Officer Comment

The policy document is in no way recommending that applicants for hackney carriage and private hire driver licences should be required to register with the Independent Safeguarding Authority (ISA). At present taxi driving is not caught by the requirements of the ISA however those undertaking school contracts are likely to be caught and required to register. The policy is simply stating that should an applicant be on the ISA barred list (i.e. prevented from working with children or vulnerable adults) then they should be considered not to be fit and proper persons.

8. **“175 Medical Assessment (NB now paragraph 160)**

A medical every 6 months is this really necessary; consider other driving industries, including the existing taxi policy as adequate. The taxi trade is and should remain equal to other driving industries”.

Officer Comment

The policy does not suggest that a medical should be undertaken every 6 months. What it proposes is that a medical produced to support an application for a driver licence should be no older than 6 months.

9. **“186 Application Procedure (NB now paragraph 167)**  
Further information required???”

Officer Comment

This section makes it clear that applications must be made to renew a licence prior to the expiry of licence and at the very latest, the day following expiry e.g. if licence expires on 31 January the latest an application can be made to renew is 1 February. Applications outside of this period cannot be treated as renewals and any future grant of licence cannot be backdated to the original renewal date.

10. **“197 code of Good Conduct (NB now paragraph 183)**  
(b) remain in the vehicle, this statement contradicts article 5 of the human rights act also the council must have a very low opinion of taxi drivers to impose so many conditions”.

Officer Comment

Article 5 of the human rights Act 1998 has been reproduced below as follows:

*ARTICLE 5 RIGHT TO LIBERTY AND SECURITY*

*1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:*

- (a) the lawful detention of a person after conviction by a competent court;*
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfillment of any obligation prescribed by law;*
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;*
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;*
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;*
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.*

*2 Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.*

*3 Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.*

*4 Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.*

*5 Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.*

Members will note that the proposal that a driver shall stay in his vehicle while waiting on a taxi rank does not conflict with article 5 above. Drivers will be expected to get out of the vehicle to assist passengers etc. Drivers who wish to take a meal break or a comfort break cannot leave vehicles unattended on a taxi rank as to do so would be a breach of the byelaws.

11. **“198 Driver’s Dress Code (NB now paragraph 185)**

As previously stated, if the council wishes to dictate a dress code then the council should provide clothing they require us to wear”.

Officer Comment

The dress code has been in existence since 2005 and has not been challenged. The code advises what is not deemed to be suitable dress (i.e. unclean clothing, words or graphics that may offend and sportswear such as beachwear, football tops etc. A uniform as such is not required but the code does advise that a minimum standard of dress is either long trousers or knee length shorts and T shirts with a full body and sleeves for men and long trousers, knee length shorts or skirts/dresses and T shirts with full body and sleeves for women. For both sexes, footwear that fits around the heel (i.e. not flip flops) is deemed to be the minimum standard. Such requirements are not onerous and do not place an additional burden on drivers.

12. **“APPENDIX B**

Not all vehicles can be fitted with swivel seats, what would happen to a new vehicle if a seat could not be fitted? And Age of vehicle. More information required”.

Officer Comment

This will be dealt with separately in an accessibility report after consultation with disabled people and subsequent trade consultation.

13. **“Emissions Test**

Vehicles manufactured before Euro IV could not pass these standards”.

Officer Comment

The proposal is to introduce Euro III first and phase in Euro IV and subsequent levels annually. This will not therefore impact on vehicles under the age of 6 years, in accordance with the Council’s age policy. Vehicles over the age of 6 years may struggle to meet the standard. The policy also proposes to exempt purpose built wheelchair accessible vehicle from this requirement.

14. **“Taximeters**  
Previously mentioned”

15. **“APPENDIX E**  
(s) Wheelchair accessible vehicles must be purpose built or converted at the point of manufacture (that is prior to first registration) rather than vehicles that have been later converted for access”.

Officer Comment

This refers to the standard for wheelchair accessible vehicles. This has been a standard requirement since at least 2005. The reason for conversion at point of manufacture is to ensure that all safety tests have been undertaken and to prevent do it yourself conversions of vehicles such as transit vans. As the Trade has not commented about this requirement it is difficult to understand what objection they have to this requirement.

16. **“HV4**  
This procedure would not work; it is the responsibility of private businesses to keep its own records”.

Officer Comment

This relates to the requirement for hackney carriages to have booking records for all pre booked fares and has been dealt with at point 2 above.

17. **“Lin 6 Uniforms**  
As previously stated council to provide”.

Officer Comment

This relates to the requirement for drivers of limousines or executive chauffeur hire vehicles to be dressed in a uniform or business type suit and has already been addressed at point 6 above.

18. **“Lim 7**  
Do not understand??”

Officer Comment

This relates to the requirement for the proprietor of a limousine or executive hire vehicle to report any change in the use of the vehicle to the Council. The reason for this is that such vehicles are given exemptions from the display of plates and signage etc because of the nature of their work. If that work changed to include regular private hire bookings the exemption would no longer be justified.

19. **“APPENDIX K**  
(a) Remain in the vehicle  
This is not possible if a driver is to assist passengers with luggage, this may also contravene article 5 of the human rights act. Also a driver cannot remain in his vehicle 24 hours a day, drivers also need to take meal and toilet breaks just like the rest of the human population”.

## Officer Comment

This has already been addressed in part at point 10 above. For clarification this relates to the requirement in the driver code of good conduct that at hackney carriage ranks and other places where hackney carriages ply for hire by forming queues drivers shall rank in an orderly manner and remain in the vehicle. There is a requirement in the byelaws that drivers must not leave vehicles unattended on hackney carriage ranks. There has also been comment from members of the public that they feel intimidated at ranks when they see numbers of drivers standing together outside of their vehicles. This requirement does not apply once the vehicle is hired as at that point drivers would be required to assist with luggage etc. The code is specific that this is a requirement when on a rank or when ranking. It clearly does not apply 24 hours a day. When drivers take meal or comfort breaks they are not working and therefore should not be on a taxi rank.