
**A REVIEW OF POLICIES AND CONDITIONS IN RESPECT OF HACKNEY
CARRIAGE AND PRIVATE HIRE VEHICLES, DRIVERS AND OPERATORS IN THE
BOROUGH OF DARLINGTON**

Responsible Cabinet Member - Councillor Bill Dixon
Neighbourhood Services Portfolio

Responsible Director - Paul Wildsmith, Director of Corporate Services

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to invite Members to consider some modifications to the Council's current policies and conditions in respect of Hackney Carriage and Private hire vehicles, drivers and operators in the borough of Darlington.

Summary

2. This report provides information for Members in relation to current and proposed policies and conditions in respect of hackney carriage and private hire vehicles, drivers and operators.
3. The report excludes the issue of accessibility of vehicles in respect of disabled travellers. This will be the subject of a separate report in due course following consultation with disabled persons and groups representing such persons.

Recommendation

4. It is recommended that the revised policy and conditions as detailed in **Appendix 1** to the attached report be approved.

Reasons

5. To provide a safe and comfortable taxi service for travellers in the borough of Darlington and simplification for applicants and current licence holders in respect of the standards the Council expects them to maintain.

Paul Wildsmith
Director of Corporate Services

Background Papers

The Town Police Clauses Act 1847

The Local Government (Miscellaneous Provisions) Act 1976

Darlington Council's Byelaws in respect of hackney carriages, 1990

The Current Policies and Conditions in respect of Hackney Carriage and Private Hire vehicles, Drivers and Operators

Appendices:

- 1 The proposed policy and revised conditions
- 2 Trade objections and officer responses

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S17 Crime and Disorder	This report provides the legal framework written which the taxi trade should operate.
Health and Wellbeing	There are no issues which this report needs to address
Sustainability	There are no issues which this report needs to address
Diversity	There are no issues which this report needs to address
Wards Affected	The proposals affect all wards
Groups Affected	The proposals affect all communities
Budget and Policy Framework	This report represents a change to Council policy
Key Decision	The proposals do not represent a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	Improved taxi provision may attract new visitors to the Town Centre
Efficiency	The proposed changes to Policy and conditions should simplify the application process, require less referrals to the Council's Licensing Committee and clarify the responsibilities placed on licence holders

MAIN REPORT

Background

6. Hackney carriages are public hire vehicles which are permitted to ply for hire in the controlled district of Darlington and also from designated taxi ranks within Darlington. They may also undertake pre booked fares. Private hire vehicles on the other hand are limited to pre booked fares only and such bookings must be made through a licensed private hire operator. The licensing of hackney carriage and private hire vehicles, drivers and private hire operators is regulated by a range of legislation but specifically the Town Police Clauses Act 1847 (the 1847 Act) and The Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act).
7. Currently, hackney carriages and private hire are controlled by a mixture of Council policies, licence conditions and byelaws. The 1976 Act permits the Council to attach conditions to the grant of Private Hire Driver and Operator Licences and Private Hire and Hackney Carriage Vehicle Licences “as it may consider reasonably necessary”. The 1847 Act permits the Council to make Byelaws to regulate the conduct of Hackney Carriage Drivers. Policies are the overarching requirements of licensing with Darlington Borough Council (eg age of vehicles, Driving Standards Agency tests etc) and these are usually a pre-requirement to making an application. NB Conditions cannot be attached to Hackney Carriage Driver Licences with the current legislation.
8. The 1976 Act also gives a right of appeal to the Magistrates’ Courts to any person who is aggrieved by any of the conditions placed on a licence. Such appeal must be made within 21 days of receipt of licence.
9. The entire policies and conditions relating to the taxi trade were last reviewed and approved by full Council on 15 September 2005 following full consultation.
10. Following the consultation process detailed at sections 13 and 14 of this report, all policies and conditions have been thoroughly reviewed. Appendix 1 to this report provides details of the policies and conditions; consists of some new proposals, and the retention of the majority of current policies and conditions. In addition specific pieces of the legislation are reproduced to ensure that the trade has a comprehensive understanding of the main legislative requirements. All of the conditions and policies have been written in plain language which can be easily understood by the trade.
11. The proposed changes to the current policies and conditions are as follows:
 - (a) A requirement for booking records to be kept for all hackney carriages undertaking pre-booked private hire work (paragraph 62 of policy).

Rationale: all private hire operators are required in law to keep booking records

in respect of private hire vehicles. This ensures information is available in the event of a complaint or query in respect of a journey. There has been an increasing practice of hackney carriages being used for private hire purposes, i.e. pre-bookings of vehicles and complaints of overcharging or poor driver attitude and a requirement to keep such records will assist with the resulting investigations. As most pre bookings come through current operators such a requirement should not cause additional burden to the Trade and will provide accountability.

- (b) A 25% reduction in the annual vehicle licence fee for all purpose built wheelchair accessible vehicles and all LPG, petro-electric and compressed gas fuelled vehicles (paragraphs 75 and 122 of policy).

Rationale: to encourage more wheelchair accessible vehicles and also to offer an incentive to reduce, where possible, the levels of CO2 emitted by licensed hackney carriage and private hire vehicles.

- (c) Fleet insurances to be accepted for a minimum of 10 vehicles, otherwise individual certificates required (paragraph 78 of policy).

Rationale: to ensure clear identification of insurance cover for licensed vehicles.

- (d) The Council to be informed if a vehicle is off road and uninsured (paragraph 80 of policy).

Rationale: licensed vehicles must always be properly insured. If proprietors have a valid reason for removing insurance cover Officers need to be made aware of this in order to determine what action if any needs to be taken in respect of the vehicle licence.

- (e) Limousines/Executive hire vehicles to be exempt from the window tint requirement subject to under 18s being accompanied by an adult other than the driver (paragraph 112 of policy).

Rationale: the vehicle specification for limousines/some executive vehicles makes it impossible to comply with the Council's standard tint specification. To enable licensing of these vehicles it is in the interest of public safety to restrict usage by unaccompanied children and young persons given that the darker window tint of these vehicles makes it difficult or impossible for people to be seen when looking from outside of the vehicle.

- (f) The vehicle age policy to be extended from under 3 years to under 5 years in respect of purpose built wheelchair accessible vehicles (paragraph 127 of policy).

Rationale: the cost of purpose built wheelchair accessible vehicles is considerably more than saloon vehicles or converted vehicles, even when purchased second hand. Extending the age policy for initial licensing will hopefully promote the licensing of more purpose built vehicles as the cost of such a second hand vehicle of 4 years combined with the ability to continue to licence such vehicles until their 10th anniversary is likely to be attractive to proprietors.

- (g) The Euro III emission standards for vehicles to be adopted from 1 April 2011; Euro IV from 1 April 2012 and future new standards to be phased in annually on 01 April each year (paragraph 129 of policy).

Rationale: the Government suggests that, by adopting targeted air quality policies for road transport, significant reductions can be achieved for noxious pollutants in the atmosphere. It highlights the impact European wide emission limits are having on improving air quality. In private cars, these standards were introduced for new vehicles as follows:

- (i) Euro I – became mandatory for new cars from 1993 (light goods vehicles 1994)
- (ii) Euro II – became mandatory for new cars from 1997 (light goods vehicles 1998)
- (iii) Euro III – became mandatory for new cars from 2001 (light goods vehicles 2002)
- (iv) Euro IV – became mandatory for new vehicles from 2006
- (v) Additional standards are proposed for 2010 and 2015

In the interests of the environment these emissions standards will also be phased in for all licensed vehicles (Euro III from 1 April 2011, Euro IV from 1 April 2012 and subsequent standards annually thereafter. The likely effect will be that the Council's current maximum age policy of 6 years for vehicles other than purpose built wheelchair accessible vehicles will be more rigorously applied.

- (h) Classic cars and purpose built wheelchair accessible vehicles to be exempt from the emission standards but policy to be kept under review (paragraph 130 of policy).

Rationale: classic cars (usually over the age of 12 years) will be unable to meet these standards and would otherwise be excluded from licensing. The

exemption for purpose built wheelchair accessible vehicles is in line with the council's policy of licensing such vehicles until 10 years of age.

- (i) Any person on the Independent Safeguarding Authority (ISA) barred list to be deemed not fit and proper to hold a hackney carriage or private hire driver licence (paragraph 159 of policy).

Rationale: persons who are deemed unsuitable to work with vulnerable people or have committed certain offences will be put on an ISA Barred List and it will be an offence for such a person to apply for a job with children or vulnerable adults. Although taxi drivers are not currently required to register with the ISA they are in a position of trust and do often carry unaccompanied children, young persons, the elderly and vulnerable. Given that the purpose of the licensing regime is to protect the travelling public it is inappropriate for persons not deemed fit by the ISA to be placed in such a position of trust. As all potential decisions to refuse a licence are referred to the Licensing Committee this will be a decision made by Members who will still consider the individual merits of each case.

- (j) The introduction of a driver code of good conduct (paragraph 184 of policy).

Rationale: the code sets out in clear terms what is already expected of drivers in terms of helping customers, personal hygiene, not causing nuisance, etc

- (k) A requirement that the criminal record check for private hire operators be no older than one month when first produced and a requirement for new criminal record checks to be produced every 3 years in line with the requirement for drivers (paragraphs 203 and 204 of policy).

Rationale: the legislation places a responsibility on the council not to grant a driver or an operator licence unless satisfied that the applicant is a fit and proper person. This proposal is to bring Operators in line with drivers.

- (l) The Planning Authority to be consulted as part of the private hire operator application process (paragraph 209 of policy).

Rationale: this is to ensure that planning consent has been obtained in respect of the operation of a business from the premises specified.

- (m) A condition to be placed on private hire operator licences requiring them to identify locations of vehicles when awaiting bookings (paragraph 214 of policy).

Rationale: complaints are often received about licensed vehicles being parked in

residential areas and other places away from the operating premises. This information will permit officers to monitor this situation and also to reconsider the suitability of operating premises if insufficient parking provision is available.

- (n) A condition to be placed on private hire operator licences requiring that only hackney carriages and private hire vehicles licensed by Darlington Council to be used for pre booked fares (paragraph 215 of policy).

Rationale: to ensure that the travelling public of Darlington enjoy the high standards set by this Council for its drivers and vehicles and that this is not compromised by vehicles and drivers licensed by local authorities with lower standards.

- (o) A fee of £15 to be levied in respect of payment by cheque that is subsequently returned as “refer to drawer” and a requirement that subsequent payments will normally be required in cash only (paragraph 235 of policy).

Rationale: to ensure that the cost of dealing with such a referral does not fall onto the rest of the licensed trade.

- (p) When considering convictions for drivers and operators time spent in custody will be discounted from the conviction free period (paragraph 241 of policy).

Rationale: when determining an application where there have been convictions in the past the period free from convictions is a consideration. While in custody there will not normally be convictions. If someone spends for example 2 years in custody and then makes an application, it is inappropriate to give credit for 2 years free from conviction, whereas if someone has not been in custody and has remained free from conviction for 2 years this should carry greater weight.

12. If Members are minded to approve the introduction of new conditions these must be phased in when a renewal licence is granted. It is therefore proposed that the new conditions will apply to licences due for renewal from 1 September 2010 except where a later phase in date is reflected. This will mean that, with certain exceptions, the new conditions will apply to the current trade within a 12-month period, ending 31 August 2011. The new conditions will however apply to all new applicants with immediate effect following approval by Council.

Equalities Impact Assessment

13. The policy has been discussed with Darlington Association on Disability (DAD) and with their agreement a full Equalities Impact Assessment is being undertaken in respect of accessibility issues which will form part of a subsequent report to Council in accordance with consultation with DAD.

Outcome of Consultation

14. On 6 October 2009 the main proposals contained within Appendix 1 were considered by the Council's Licensing Committee who thoroughly examined the proposals and recommended to Council that they be approved. The Committee also approved some proposals in respect of wheelchair accessible vehicles which are now to be the subject of a later report.
15. On 14 October 2009 a 12 week consultation period was commenced with the Trade and a copy of the proposed policies and conditions was circulated asking for written comments to be submitted no later than 6 January 2010. As a result of this consultation, 64 identical responses were received. These have been reproduced in full at **Appendix 2** along with an officer response which explains the rationale for the new proposal. Once again the wheelchair accessibility proposals are now to be the subject of a later report and a further consultation exercise will be undertaken with the trade as part of that process.