

	<b>REPORT TO CABINET TO BE HELD ON 13 DECEMBER 2016</b>
	<b>Corporate Priorities</b>  <b>Meets all Corporate Priorities</b>

**REPORT OF: THE DIRECTOR (LD) – 16/261**

**WARDS AFFECTED: All**

**SUBJECT: REVIEW OF THE COUNCIL'S TAXI AND PRIVATE HIRE POLICY (POST CONSULTATION)**

**RECOMMENDATIONS:**

Members are asked to:

- i) note the analysis of the results of the consultation on the Taxi and Private Hire Policy (attached at **Appendix 1**);
- ii) consider the consultation comments and amendments made to the draft Policy as a result (attached at **Appendix 2**);
- iii) note the results of the Equality Impact Assessment (attached at **Appendix 3**);
- iv) approve the amended draft Taxi and Private Hire Licensing Policy (attached at **Appendix 4**) post consultation; and
- v) recommend its approval by Cabinet and Council for adoption.

**REASON FOR RECOMMENDATION:**

The current Policy was adopted in 2013. It is a requirement that Councils regularly review and update policies to reflect changes in legislation, local circumstances and relevant safeguarding issues. A comprehensive review of the Policy has now taken place resulting in a number of key changes and amendments following consultation.

**HIGHLIGHTED RISKS:**

A failure to review and update the Policy may compromise the safety and effectiveness of taxi and private hire services.

## **1. INTRODUCTION**

- 1.1 The Council, as Licensing Authority, has the responsibility under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 for the licensing of hackney carriage and private hire vehicles, operators and drivers.
- 1.2 The Council has traditionally exercised this responsibility through the imposition of procedures and conditions which have been developed over a number of years as part of the Taxi and Private Hire Policy.
- 1.3 It is important that this Policy document is regularly reviewed so that it remains current, clear and effective whilst providing the trade and public with a clear understanding of how taxi and private hire services are administered. It will also ensure a consistency in approach by Officers thus ensuring fairness, openness and consistency to the trade.
- 1.4 Members are asked to note the comments and responses attached to this report and following extensive consultation to approve the amended draft Policy at **Appendix 4**.

## **2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN**

- 2.1 Given the extensive role taxi and private hire services play in local transport provision, this report supports all four of the Council's Corporate Priorities.

## **3. BACKGROUND AND ISSUES**

- 3.1 There have been a number of key changes since 2013 which require the Policy to be amended. As part of the review, careful consideration has been given to the reports published by Alexis Jay (August 2014) and Louise Casey (February 2015) into the historical cases of child abuse in Rotherham, particularly the findings relating to the taxi and private hire services local to that area.
- 3.2 Members will be aware that the Council already has a comprehensive Policy in place which has been developed over a number of years. It is considered that the further amendments brought by this review will ensure the revised Policy provides the most appropriate framework for ensuring a safe and effective service.
- 3.3 **Appendix 2** sets out the consultation comments and amendments made to the draft Policy.
- 3.4 Members are now asked to consider the draft Policy which has been subject to further minor amendments and approve it for submission to Cabinet and Council for final adoption and implementation.

## 4. CONSULTATION

4.1 Extensive consultation has taken place with the following:

- The general public via an online survey on the Council's website
- The Scarborough & District Taxi Association
- All Taxi and Private Hire Drivers
- All Operators of Taxis and Private Hire Vehicles
- North Yorkshire Police
- North Yorkshire County Council
- Other interested/affected stakeholders such as Scarborough & District Disablement Action Group and SBC's Community Safety & Safeguarding team
- Neighbouring Local Authorities
- The Council's Equality Officer.

4.1 A consultation period of 8 weeks was undertaken commencing from 14 September 2016 until 9 November 2016. All comments and observations have been considered and the Policy has been amended where necessary.

4.2 As a result of advice from the Council's legal department a number of minor amendments have been included in the Policy.

4.3

4.4 As a result of consultation with the Council's Equality Officer a number of changes have been made to the Dress Code which has been incorporated into the Policy. These are set out in **Appendix 3**.

4.5 Members are asked to note that a total of 323 responses were received following the end of the consultation period. Overall consultees agreed with the draft policy, however Members are asked to note that there were two specific areas that were not agreed:

- a) A requirement that all licensed vehicle MOT tests and compliance checks be undertaken at the Council's Depot in Scarborough. 75.1% disagreed with this proposed change with 24.9% agreeing.
- b) An increase in the minimum acceptable tyre tread depth from 1.6mm to 2mm across 75% of the tyre. 59.1% disagreed with this proposed change with 40.9% agreeing; and

### MOT comments

4.6 In summary the reasons given for disagreeing with this amendment are:

- Monopoly / unfair competition / lack of choice /unreasonable constraint
- How many testing stations are planned?
- Resulting knock on effect could have serious consequences
- What contingency plans are in place if there are systems and equipment failures?

- Promotes negative image of the local MOT stations
- The Council are stripping MOT stations of much needed revenue
- Inconvenience surrounding distance and availability
- Potential for lack of flexibility
- Loss of time and income caused by vehicles having to be repaired elsewhere and re-presented to the Council
- Will the Council offer an MOT discount?
- Will the Council be able to cope with 320 MOT tests twice yearly in an 8 week period?
- Unfair, unjust and improper for the Council to impose this condition
- Income generated will not cover the set up and running costs
- Concerns over timescales for re-tests
- Another way for the Council to make money and questioning the Council's motive
- The Council would be acting as 'judge and jury'
- Not twice yearly

#### Tyre tread depth comments

4.7 In summary the reasons given for disagreeing with this amendment are:

- The legal requirement is 1.6mm, the law is set at this legal limit for a reason
- Contrary to the standards set by the DVLA and the Council do not have the authority to undermine or over rule this
- What evidence is there to increase this?
- This is the Government safe limit so why amend it?
- 2mm would mean more expense, more tyres
- Licensed vehicles should be governed by MOT standards
- Not the Council's prerogative to bring in a rule that contracts the road traffic laws
- Would leave the Council open to challenge
- The situation could occur where a Council tester would issue a Pass Certificate to a vehicle with tyre depths of between 1.6 and 1.95mm whereas Licensing Officers could take it off the road as soon as it leaves the testing station.

## **5. ASSESSMENT**

5.1 It is important that the Council takes into account consultees' comments as part of the review process. Consideration of consultees' comments and reasons is clearly set out in the relevant Appendix of this report.

5.2 Three of the proposals have garnered the majority of comments. These consist of the proposed changes to current MOT arrangements, changes to the dress code and changes to the minimum acceptable tyre tread depth.

5.3 In response to the comments regarding the proposed change to current MOT arrangements, Officers have endeavoured to respond to all points raised in

the consultation process. As there were a large number of comments, Members are referred to **Appendix 2**, specifically the section that relates to Paragraph 3.3 and 3.4. Members may also seek to read the response from the Scarborough & District Taxi Associated appended to the rear of this Appendix.

- 5.4 In response to the comments regarding the proposed dress code, Officers accept that the work drivers undertake is diverse and undertaken in all weather conditions. Although drivers should feel comfortable whilst working; Officers also believe that it is important that a certain standard of dress is maintained. After consideration it is proposed to amend the dress code to include smart jeans and to clarify that a polo shirt constitutes a 'collared shirt'. The Council does not believe there to be a significant difference in comfort between a t-shirt and polo shirt so therefore has not amended the code to include t-shirts.
- 5.5 In response to the comments regarding the proposed change to the minimum acceptable tyre tread, the law requires car tyres to have a minimum tread depth of 1.6mm in a continuous band around the central three quarters of the tyre. However, it is generally recognised that a tyre with a tread depth below 2mm results in longer stopping distances and poorer performance in adverse weather. Officers believe that it is important that vehicles used for the business purpose of transporting members of the public should therefore adhere to a higher standard than the legal minimum, particularly as the majority exceed the mileage of the average domestic vehicle. Officers consider the 2mm minimum, adopted by a number of other local authorities, will assist in ensuring the safety of the travelling public without being overly burdensome to the trade.
- 5.6 If the Council's Taxi and Private Hire Licensing Policy is revised and adopted it will be updated and fit for purpose. By not having an effective policy in place it could result in inconsistent decision making which may compromise the safety of the travelling public and other road users.

## **6. IMPLICATIONS**

### **Policy**

- 6.1 This report does recommend substantial changes to the Council's Taxi and Private Hire Policy with further changes as a result of public consultation.

### **Financial Implications**

- 6.2 The costs involved in undertaking the review have been met from existing budgets.

### **Legal**

- 6.3 Members are advised that the Policy should comply with public law principles of natural justice. Failure to comply with such principles could result in challenge to the implementation of the new policy by way of judicial review.

- 6.4 The Local Government (Miscellaneous Provisions) Act 1976 provides that drivers are able to challenge conditions attached to the grant of an individual licence by way of appeal to the Magistrates' Court.

#### **Human Rights**

- 6.5 Under the Human Rights Act 1998 members must consider the hackney carriage and private hire drivers' right to "enjoyment of his possession" under Article 1 of the First Protocol – Protection of Property and in determining a policy regarding the licensing of these individuals must balance this right with the need to protect the public.

#### **Crime and Disorder**

- 6.6 Under s17 of the Crime and Disorder Act 1998 the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.
- 6.7 In addition there are obvious links to community safety in ensuring an adequate supply of properly licensed vehicles as a safe mode of transport for the public, particularly at times when other public transport may be unavailable.

#### **Equality and Diversity**

- 6.8 An Equality Impact Assessment has been undertaken and as such a number of amendments have been made to the Dress Code.

### **7. ACTION PLAN**

- 7.1 If approval for the proposed Taxi & Private Hire Policy is given it will be submitted to Council on 9 January 2017 for adoption and implementation from 10 January 2017.



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#### **Background Papers:**

Casey, L. (2015). Report of inspection of Rotherham Metropolitan Borough Council

Jay, A. (2014). Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 – 2013)  
Local Government (Miscellaneous Provisions) Act 1976  
Town Police Clauses Act 1847

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR or email: [licensing.services@scarborough.gov.uk](mailto:licensing.services@scarborough.gov.uk).





## Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

## Risk Scoring

Impact	5	[Hatched]				
	4	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
	3	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
	2	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
	1	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
		A	B	C	D	E
	Likelihood					

### Likelihood:

A = Very Low  
 B = Not Likely  
 C = Likely  
 D = Very Likely  
 E = Almost Certain

### Impact

1 = Low  
 2 = Minor  
 3 = Medium  
 4 = Major  
 5 = Disaster