

BIRMINGHAM CITY COUNCIL

**REPORT OF THE DIRECTOR OF REGULATORY SERVICES
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

12 APRIL 2017
ALL WARDS

**CONDITIONS OF LICENCE FOR
PRIVATE HIRE DRIVERS & VEHICLES**

1. Summary

- 1.1 Following reports to this committee in April, July and November 2016 this report proposes the introduction of a new combined set of conditions to be attached to the licences issued in respect of private hire drivers and vehicles (Appendix 1).
- 1.2 The current conditions relating to these two types of licence have been reviewed, amended and updated in an attempt to clarify certain issues, introduce new initiatives, procedures and remove what are already legal duties.
- 1.3 A considerable number of amendments have been made in respect of the format of the conditions of licence and their content and documents detailing the tracked changes are available as background papers.
- 1.4 A combined set of conditions for drivers and vehicles has been produced to remove duplicate conditions and ensure those drivers that are not vehicle owners are aware of the responsibilities pertaining to the vehicle they drive and vice versa.

2. Recommendation

- 2.1 That the Committee consider the proposed updated and combined conditions for private hire drivers and vehicles at Appendix 1 and agrees to implement them with effect from the implementation date of the proposed policy on vehicle signage.
- 2.2 That outstanding minute 648 from 20/04/2016 be discharged in so far as it relates to drivers and vehicles.

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3. Background

- 3.1 Following a proposal to this committee in October 2014 to introduce a Quality Rating Scheme for Private Hire Operators, officers from the Enforcement team consulted with the trade.
- 3.2 The vast majority of the feedback from that exercise was that before a Quality Rating Scheme could be introduced the conditions on which they would be measured MUST be reviewed as they were, according to the representatives there, "not appropriate given changes in technology".
- 3.3 A further report to this committee in January 2016 regarding the Implications of the Casey Report on Child Sexual Exploitation in Rotherham set out an action plan "...to improve our systems and to minimise the risk..."
- 3.4 This review of conditions for Drivers and Vehicles completes part of that action plan.

4 Conditions

- 4.1 Sections 48 and 51 of the Local Government (Miscellaneous Provisions) Act 1976, which relate to the issue of licenses for private hire vehicles and drivers respectively, state:

"A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary".

- 4.2 The purpose of attaching conditions to these licences is to be able to regulate a large variety of matters relating to the way proprietors and drivers conduct themselves and the use of their vehicles. Conditions can prescribe the ways in which activities are conducted, the sort of documentation operators, proprietors and drivers must maintain and how vehicles are to display their plates and signage.
- 4.3 The conditions are used to deal with issues that require regulating and are drafted to stipulate the exact manner in which activities are to be undertaken. Failing to comply with conditions may result in enforcement action being taken. This may include referral to a Licensing Sub Committee for them to consider whether the licensee is "fit and proper" and if not whether their licence should be suspended or revoked. For example, a complaint from members of the public about a driver's behaviour.
- 4.4 The current conditions for drivers and vehicles were last reviewed and/or amended on the 15 September 2010, with an additional amendment in February 2015 to account for the changes to the Equalities Act 2010.

- 4.5 Since then, a number of changes have taken place both in respect of how the private hire trade operate with the introduction of new technology (apps.) and the current review of vehicle signage.
- 4.6 The current conditions contain offences which may result in either the cautioning or prosecuting of the licensee, an example of which would be a driver not wearing his private hire badge. These conditions have been removed from the proposed conditions as these are legislative requirements and so there is no need for it to also be a condition of licence.
- 4.7 Further guidance has been produced (Appendix 2) to accompany the new conditions advising drivers and vehicle owners of their legal obligations. This gives details of offences under the various Acts that relate to private hire.
- 4.8 The Licensing Enforcement Team deal with numerous complaints about the activities of licensees and undertake various exercises throughout the year including the stop checking of vehicles and drivers and the inspection of records and documentation retained at operator's bases. These conditions are used to measure the licensee's compliance and deal with such complaints.

5. Issue of Conditions of Licence

- 5.1 Conditions can only be issued upon the grant of a licence except in exceptional circumstances. Thus should Committee be minded to approve the amended conditions of licence as drafted, they will then be issued upon the grant or renewal of licence applications following the implementation of the proposed policy on vehicle signage.
- 5.2 It is worth noting however, that due to the availability of three year licences for drivers that we will be enforcing two sets of conditions for up to three years following the proposed introduction of new conditions.
- 5.3 This is somewhat compensated for in that vehicles are currently only licensed for 12 months so the vast majority of drivers will be made aware of the new proposed conditions.
- 5.4 Any individual aggrieved by the conditions of licence may make an application for exemption from them and attend a hearing before a Licensing Sub Committee. Alternatively, they can appeal to a Magistrates Court within 21 days of the service of the licence upon them.

6. Consultation

- 6.1 An initial draft of the proposed combined conditions was consulted on with the trade and the wider public by way of a survey on the Birmingham Be Heard website.

- 6.3 This consultation was advertised in the last online trade newsletter 'Driving Forward' and post cards were sent to all vehicle owners, drivers and operators advising where they could view or download 'Driving Forward'.
- 6.4 Details of the consultation were also published on the City Council's website and sent out to various potentially interested parties via social media.
- 6.5 The proposed conditions' consultation and the responses are available as background papers.
- 6.6 Following that wider consultation a further meeting was held with trade representatives to discuss the proposed conditions.
- 6.7 Notes of the trade meeting are also available as background papers and comments made at that meeting have been considered whilst preparing this final draft of conditions.
- 6.8 Account has also been taken of the Licensing Enforcement team's views and the need to protect the safety of the public.
- 6.9 A version of the proposed conditions is attached at Appendix 3 detailing the reasons the Licensing Authority feels they are necessary to protect public and driver safety as well as assist in the investigation and prevention of offences.

7. Summary of Key Changes

- 7.1 The following points highlight the key changes from the original conditions to the final draft of the proposed conditions. The list does not include every minor variation to wording.
- Two sets of Conditions combined into one Document
 - Reduced from 82 in total to 34 conditions
 - Duplication removed
 - Legal obligations removed
 - Guidance now produced as a separate document
 - Allows for Smart phone Apps to be used for receiving bookings from operators
 - Removal of specific signage requirements (to be included in a proposed Vehicle Signage Policy)

8. Implications for Resources

- 8.1 This work has and will be undertaken within the resources available from within those funds generated by the licence fee structure.

9. Implications for Policy Priorities

9.1 The content of this report support the Committee's objective to improve standards of licensed people, premises and vehicles and the Council's strategic outcome of staying safe in a clean, green city.

10. Implications for Equality and Diversity

10.1 No specific implications have been identified.

DIRECTOR OF REGULATORY SERVICES

Background Papers:

Current Conditions for Private hire drivers
Current Conditions for Private hire vehicles
Initial draft of conditions for Consultation with the trade
Annotated private hire driver conditions
Annotated private hire vehicle conditions
Driving Forward online and Postcard sent out to all licensees
Private Hire Driver & Vehicle conditions consultation on Be Heard
Notes from Trade meeting
Letter from Competition and Markets Authority
Enforcement responses