

BIRMINGHAM CITY COUNCIL

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

13 JULY 2016
ALL WARDS

**CONDITIONS OF LICENCE FOR
PRIVATE HIRE OPERATORS**

1. Summary

- 1.1 This report proposes the introduction of a new set of conditions to be attached to the licences issued in respect of private hire operators (appendix 1).
- 1.2 The current conditions relating to operators licenses have been reviewed, amended and updated in an attempt to clarify certain issues and introduce new initiatives and 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 an annotated summary of the changes is attached at appendix 2.
- 1.4 A combined set of conditions for drivers and vehicles has been produced and these will be consulted on before bringing them to this Committee for consideration.
- 1.5 A review of hackney carriage byelaws and conditions will also be carried out and brought to this committee for consideration in due course.

2. Recommendations

- 2.1 That the Committee considers the proposed updated conditions for private hire operators at Appendix 1.
- 2.2 That subject to the views and comments of the Committee, officers be instructed to consult on the proposed conditions with the trade and members of the public.
- 2.3 That a final version of the conditions with comments from the trade be brought back to the Committee for approval and to agree an implementation date.

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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 fit for purpose.
- 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 Operators completes part of that action plan.

4 Conditions

- 4.1 Section 55 of the Local Government (Miscellaneous Provisions) Act 1976, which relate to the issue of licenses for private hire operators, states:

“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 operators, conduct themselves and the use of their vehicles. Conditions can prescribe the ways in which activities are conducted, the sort of documentation operators 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.
- 4.4 The current set of conditions for operators was last reviewed and/or amended on 15 September 2010, with an additional amendment in February 2015 to account for the changes to the Equalities Act.

- 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. 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 3) to accompany the new conditions advising operators of their legal obligations. This gives details of offences under the various Acts that relate to private hire.
- 4.8 The Licensing Enforcement Team deals with numerous complaints about the activities of licensees and undertakes various exercises throughout the year including the stop checking of vehicles and drivers and the inspection of records and documentation retained at operators' bases. These conditions are used to measure the licensee's compliance and deal with complaints.

5. Issue of Conditions of Licence

- 5.1 Conditions can only be issued upon the grant of a licence. 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 five year licenses for operators that we could be enforcing two sets of conditions for up to five years following the proposed introduction of new conditions.
- 5.3 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 Operator conditions (appendix 4) were circulated around all those operators that have provided an email contact. This is 55 of the 71 Operators currently licensed by the City Council.
- 6.2 Three replies were received and these are attached at appendix 5.
- 6.3 A number of the suggestions that were made by the consultees that responded and comments made by the enforcement team have been included in the final draft presented here at Appendix 1.

7. Implications for Resources

- 7.1 This work will be undertaken within the resources available to your Committee and is funded through charges to operators' licenses.

8. Implications for Policy Priorities

- 8.1 The content of this report assists in promoting improvements in the standards of services provided by licence holders across the City namely to improve standards of licensed people, premises and vehicles and the Council's strategic outcome of staying safe in a clean, green city the City.

9. Implications for Equality and Diversity

- 9.1 No specific implications have been identified.

DIRECTOR OF REGULATORY SERVICES

Background Papers: nil