

North Tyneside Council Report to Cabinet Member Date: May 2019

ITEM Title: Consultation on Draft Statutory Guidance for Licensing Authorities
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Portfolio: Community Safety and
Engagement

Cabinet Member: Councillor Carole Burdis

Report from Service Area: Environment, Housing and Leisure

Responsible Officers: Phil Scott (Tel: 643 7295)
Head of Environment, Housing and
Leisure

Wards affected: All

PART 1

1.1 Executive Summary:

This report seeks the approval of the Cabinet Member for Community Safety and Engagement to submit a response to the public consultation on the draft Statutory Guidance for Licensing Authorities released by the Department for Transport in relation to the licensing of taxis, private hire vehicles, drivers and private hire operators.

1.2 Recommendations:

It is recommended that the Cabinet Member:

- (1) Approve the submission of the consultation response, as attached at Appendix 2, on behalf of North Tyneside Council.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 15 March 2019.

1.4 Council Plan and policy framework:

This report relates to the following priorities in the 2018-2020 Our North Tyneside Plan:

Our Places will:

- provide a clean, green, healthy, attractive, safe and sustainable environment

Our People will:

- be healthy and well

Our Economy will:

- grow by supporting new businesses and building on our strengths

1.5 Information:

1.5.1 Background

The Department for Transport (DFT) is seeking views on proposed recommendations contained in a draft Statutory Guidance to Licensing Authorities on how their licensing powers should be exercised when licensing vehicles, drivers and operators in order to safeguard the public including children and vulnerable adults. This is the first Statutory Guidance in relation to hackney carriage and private hire licensing published by a Secretary of State using the powers to publish such Guidance using their powers under the Policing and Crime Act 2017. The DFT has stated that it expects that the recommendations made in the final version of the Statutory Guidance will be implemented by Licensing Authorities unless there is a compelling local reason not to do so.

Many of the areas covered by the consultation are already in operation in North Tyneside and incorporated into the Authority's Hackney carriage and Private Hire Licensing Policy. There are however new issues that the DFT are proposing to be introduced and are seeking views on. These include:

- all licence holders should be required to subscribe to the Disclosure and Barring Service (DBS) update service;
- appropriate DBS checks to be conducted every 6 months;
- Licensing Authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public;
- Licensing Authorities should produce guidance for passengers on making complaints directly to the Licensing Authority that must be displayed in licensed vehicles;
- Licensing Authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers;
- Private Hire Vehicle (PHV) operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles and PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the register;
- PHV operators should be required to provide to the Licensing Authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of their licence;
- PHV operators may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking;
- Licensing Authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed;
- Annex A of the draft statutory guidance provides a list of offences to aid consistency in the 'fit and proper' assessment for licences.

A copy of the consultation document is attached at Appendix 1 to this report.

1.5.2 Consultation

The consultation on the draft Statutory Guidance runs for 12 weeks from 12 February 2019 to 22 April 2019. A response on behalf of the Authority has been prepared and on approval will be submitted to the DFT by the Cabinet Member for Community Safety and Engagement under the delegation given to her to do so.

Members of the Authority are entitled to submit a response to the consultation on their own behalf should they wish to do so.

Views have been sought from the Regulation and Review Committee. Their responses and comments have been included in the draft response attached at Appendix 2 to this report.

1.6 Decision Options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet Member approves the consultation response as attached to Appendix 2 of this report.

Option 2

Cabinet Member does not approve the consultation response as attached to Appendix 2 of this report.

Option 1 is the recommended option.

1.7 Reasons for Recommended option:

Option 1 is recommended to enable the views of the Authority on the Draft Statutory Guidance to be expressed to the DFT.

1.8 Appendices:

Appendix 1 – Consultation on Statutory Guidance for Licensing Authorities – Moving Britain Ahead

Appendix 2 – Consultation response form

Appendix 3 – Letter from Chair of Regulation and Review Committee to Cabinet Member

1.9 Contact Officers:

Colin MacDonald, Senior Manager Technical & Regulatory Services, (0191) 643 6620

Joanne Lee, Public Protection Manager, (0191) 643 6901

Alan Burnett, Trading Standards and Licensing Group Leader, (0191) 643 6621

John Barton, Lawyer, (0191) 643 5354

David G Dunford, Acting Senior Business Partner, (0191) 643 7027

1.10 Background Information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- 1) [Written statement to Parliament 12 February 2019 – Government response and consultation on taxi and private hire vehicle licensing](#)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and Other Resources:

There are no financial implications directly arising from the report. Should any financial impacts arise as a result of changes to the legislation, these will be managed within existing budgets.

2.2 Legal:

The power to issue the proposed Statutory Guidance is contained within Section 177 of the Policing and Crime Act 2017. This section requires the Secretary of State to consult with the following before publishing the Statutory Guidance :

- a. The National Police Chiefs' Council,
- b. Persons who appear to the Secretary of State to represent the interests of public authorities who are required to have regard to the guidance,
- c. Persons who appear to the Secretary of State to represent the interests of those whose livelihood is affected by the exercise of the licensing functions to which the guidance relates, and
- d. Such other persons as the Secretary of State considers appropriate.

As the consultation on the draft Statutory Guidance is a public consultation the DFT are also keen to hear from any other groups or individuals with an interest in this matter.

2.3 Consultation/Community Engagement:

2.3.1 Consultation

The consultation runs from 12 February 2019 to 22 April 2019. The views of the Regulation and Review Committee on the consultation document were sought at the meeting of 28 February 2019. Their views have been incorporated into the response document attached at Appendix 2.

2.4 Human Rights:

There are no human rights implications arising from this report.

2.5 Equalities and Diversity:

There are no equality and diversity implications arising directly from this report.

2.6 Risk Management:

There are no risk management implications directly arising from this report. Risks associated with delivery of the Authority's Public Protection function are monitored via the Technical Services Partnership risk arrangements included within the strategic partnership governance framework.

2.7 Crime and Disorder:

There are no crime and disorder implications arising directly from this report.

2.8 Environment and Sustainability:

There are no direct implications for environment and sustainability arising from this report.

PART 3 – SIGN OFF

- Chief Executive X
- Head of Service X
- Mayor/Cabinet Member(s) x
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy and Customer Service X