

Nottingham City Council

Responses to consultation

Hackney Carriage & Private Hire vehicle Policy and Procedures Manual (the Manual)

Ref no	Summary of respondent's comments	Authority's appraisal of comments	Authority's response with regard to the proposed Manual
1	Withdraw DIPPS policy because in the absence of a driver improvement programme, enforcement alone is unlikely to be successful & may be counterproductive.	The DIPPS policy is an adopted policy and was not included in the consultation.	No change proposed
2	Withdraw the convictions policy requirement to ban for 5 years a driver caught using a handheld device. This is disproportionate.	<p>The Statutory Guidance recommends that 'Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later'.</p> <p>The Department for Transport expects its recommendations to be</p>	No change proposed - the proposals are consistent with the Statutory Standards and in any event the convictions policy allows for each case to be determined on its own merits.

		implemented unless there is a compelling local reason not to.	
3	Convictions related revocation should be applied for criminal convictions relating to sexual & violence related offending only with all other convictions to be considered on their merits on a case-by-case basis.	In considering the Convictions, Enforcement & Fitness policy, the Council must be mindful that all cases be considered on their individual merits, and where circumstances demand, it may depart from the policy. Statutory powers of revocation are not limited to sexual or violence related convictions and the Council is entitled to formulate a policy of the type proposed	No change proposed
4	Operators should be required to prove that they are in compliance with all employment law to be considered fit and proper.	This is not a requirement of either the Local Government (Miscellaneous Provisions) Act 1976 or the Statutory Guidance. Employment issues are matters between the business and those it employs. The Licensing Authority is concerned with the regulation and fitness of the operator to operate vehicles and accept bookings	No change proposed
5	Operators should be required to record all physical assaults and hate crime against drivers and report to the regulator within 48 hours.	All crimes against drivers should be reported to the police in order that they can be investigated. The investigation of such offences is	No change proposed

		not within the power of the Council.	
6	Operators should be required to document and present to the regulator an operational safety & risk management system.	This is not a requirement of either the Local Government (Miscellaneous Provisions) Act 1976 or the Statutory Guidance. Health and safety at work is the subject of separate legislation and regulation. The Licensing Authority is concerned with the regulation and fitness of the operator to operate vehicles and accept bookings. Duplication of other existing legislative requirements is not proportionate, appropriate, nor reasonably necessary	No change proposed
7	Operators must uphold equalities law & provide an option for disabled passengers to declare their disability needs in the booking process online and via telephone. The operator must ask if there are any disability needs. The information must be transmitted by the operator to the driver before pick up.	There are already legal requirements placed on both drivers and operators by the Equality Act 2010 and the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022. Duplication of legislative requirements is not proportionate, appropriate nor reasonably necessary Drivers can apply for exemption certificates not to carry assistance dogs or to provide assistance to customers in wheelchairs if they	No change proposed

		produce the relevant medial evidence.	
8	Operators must abide by sec 56 LG(MP) Act 1976 & confirm to passengers that the contract for transport is between the passenger & the operator.	Confirmation of the provisions of 56 LG(MP) Act 1976 by an operator is not a requirement of either the Local Government (Miscellaneous Provisions) Act 1976 or the Statutory Guidance.	No change proposed
9	Operators must require a basic DBS for passengers intending to share rideshare services with other passengers.	<p>This is not a requirement of either the Local Government (Miscellaneous Provisions) Act 1976 or the Statutory Guidance. It is not reasonable to require operators to ask or require their passengers to produce DBS checks nor is it likely that Operators would have a power to do so.</p> <p>A condition of the Combined driver's licence states that 'the driver shall not without the consent of the hirer of the Private Hire vehicle, convey or permit to be conveyed any other person in the vehicle.</p>	No change proposed
10	Operators must inform passengers how they can make complaints to NCC	The Statutory Guidance makes this a requirement for the licensing authority rather than the Operator. This information is already available on the taxi licensing web site.	No change proposed

11	Operators should make a declaration that the personal data must not be used to profile drivers or passengers in any automated decision making relating to fares or pay.	This is not a requirement of either the Local Government (Miscellaneous Provisions) Act 1976 or the Statutory Guidance. The Licensing authority does not regulate employment or other related matters between drivers and those they choose to work for. The management of personal data is subject to other statutory controls	No change proposed
12	The Council must provide a whistleblowing policy for operator staff and private hire drivers.	The Statutory Guidance only relates to Council's having internal whistleblowing procedures in place – there is no suggestion of seeking to impose such procedures on operators or drivers. The Manual covers internal whistleblowing procedures in section 5 of the document and Appendix P.	No change proposed
13	Fit & proper checks to include online behaviour, invasion of privacy and breaches right to a private life.	The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. However the reference to online behaviour in paragraph 6.1 was not meant to imply that there would be routine monitoring of social media rather if the Council had for example become aware of concerns about statements made and published on line then they	Change “General conduct/standards of behaviour including online behaviour” to General conduct/standards of behaviour including, where of concern , online behaviour

		could form a consideration. The human rights referred to are qualified where interference is in accordance with the law (e.g. applying the fit and proper person test) and necessary in the interests of (amongst other things) public safety, the prevention of crime and disorder, or the protection of the rights and freedoms of others	
14	Topography test – no statutory or safety requirement to carry out a numeracy test.	Drivers handle cash so it is pertinent to check that they can carry out simple maths to ensure they give passengers the correct change.	No change proposed
15	Medical assessment – nothing in the Statutory Guidance suggesting the need for drug and alcohol testing of drivers.	These requirements provide equity with drivers of other forms of public transport. The Statutory Guidance in relation to drug convictions and drug driving convictions, does state that an applicant may have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.	No change proposed
16	Irish citizens have the right to work in the UK	Agreed This is correct, and an additional line has been added to section 6.10 of the document for clarification.	An additional line has been added to section 6.10 of the Manual for clarification.
17	Driver's hours – comments on who will keep the records and if the licensing authority is recommending or mandating the requirements.	The licensing authority cannot mandate the hours worked by licensed drivers. The information in the Manual is clearly expressed to	No change proposed

		be a recommendation only based on the limits applicable to heavy goods and public service vehicle drivers.	
18	Fire extinguishers & first aid kits – operators to provide first aid training at their expense	This will not be practicable as many drivers are self-employed and can work for more than one operator.	No change proposed
19	Receipts – driver will not always know the fare the operator is charging; they cannot provide a VAT receipt and passengers cannot obtain a VAT receipt from a non-VAT registered driver.	This is a current condition of a combined driver's licence and just requires a driver to provide a passenger with a receipt for the fare paid, not a VAT receipt. However for clarification an additional line has been added to the conditions of licence which states that a driver need only provide a receipt if they know the fare or have taken physical payment.	Change 'Where a driver knows the fare being charged or has taken physical payment for the fare' has been added to the conditions of licence.
20	Section 80 definition of an operator is insufficient. s56 sets out requirements for record keeping and contracting While operators may have less immediate contact with passengers, the risk to passengers is arguably greater over the longer term from operators and their staff. This is because they have continuous access to passenger personal data including booking records.	The Manual accurately reflects the definition of the term 'operate' contained in section 80 of the LG(MP) Act 1976. Record keeping is governed by the Conditions of Licence in Appendix G and the use of data is governed by separate legislation	No change proposed
21	Operator fitness – operators must be required to declare that they comply with all taxation and employment law to be assessed as fit and proper.	In relation to employment law, this is not a consideration of either the Local Government (Miscellaneous Provisions) Act 1976 or the Statutory Guidance.	No change proposed

		<p>When applying for an operator licence for the first time, the applicant must confirm that they are aware of their tax responsibilities.</p> <p>An applicant who wishes to renew a licence has to provide a tax check code. The licensing authority will use this code to obtain confirmation from HMRC that the applicant has completed the check and are signed up to pay tax before being able to consider their renewed licence application.</p> <p>This is an HMRC requirement.</p>	
22	Complaints record – should be kept for a 3-year rolling basis.	Once an operator licence expires, the licensing authority cannot mandate that an operator keeps its records.	No change proposed
23	Equalities – operators should ask passengers if they have a disability otherwise, they can never be held legally liable under section 167 (A) A1) (a)	There are already legal requirements placed on both drivers and operators by the Equality Act 2010 and the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.	No change proposed
24	DIPPS – in the absence of a comprehensive policy, DIPPS enforcement is unlikely to improve regulatory compliance.	See also 1 above. The DIPPS policy is an adopted policy and was not included for consultation.	No change proposed

25	Using a handheld device whilst driving – revocation and a 5-year ban is a harsh punishment for what is a 6-point DVLA offence	<p>See also 2 above The Statutory Guidance recommends that ‘Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving. A licence will not be granted for at least 5 years have elapsed since the conviction or any sentence/disqualification was imposed’.</p> <p>The Department for Transport expects its recommendations to be implemented unless there is a compelling local reason not to.</p>	No change proposed
26	Operator conditions – additional conditions should be made to require the operator to ask or make provision for the passenger to declare disability needs to meet their obligations under sec 167 Equality Act.	See also 23 above There are already legal requirements placed on both drivers and operators by the Equality Act 2010 and the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022. This would not therefore be considered a “reasonably necessary “condition to impose. A passenger may wish to declare a disability need.	No change proposed
27	Operator conditions – The operator shall implement a policy of risk management to ensure the safety & welfare of drivers and passengers & require passengers who wish to partake in ride sharing to provide a basic DBS certificate.	<p>See also 6 and 9 above This is not a requirement of either the Local Government (Miscellaneous Provisions) Act 1976 or the Statutory Guidance.</p> <p>A condition of the Combined driver’s licence states that ‘the</p>	No change proposed

		drive shall not without the consent of the hirer of the Private Hire vehicle, convey or permit to be conveyed any other person in the vehicle.	
28	Complaints – NCC appears to have ignored the requirement to inform and educate passengers on how they can complain to the licensing authority.	This information is already on the taxi licensing web site.	No change proposed
29	Driver security – operators must inform the council within 48 hours of any assault or hate crime carried out against a licensed driver & develop effective strategies for reduction	See also 5 above All crimes should be reported to the police in order that they can be investigated.	No change proposed