

RESPONSE 1

Received from the holder of a Private Hire Operator's licence and 4 individual Dual Drivers licence holders, 6th June 2019:

Good afternoon. This is the Corporate Response of Associated Taxis/Kwick Cars/Sawbridgeworth Cars (collectively "Associated Taxis") and the following individual Badge Holders:-

NAME REDACTED

NAME REDACTED

NAME REDACTED

NAME REDACTED

Individual badge holders operating on our circuit are self employed and are entitled to and may express different views.

We support any sensible, reasoned and practical proposals that seek to enhance industry standards and improve safety for all passengers and stakeholders.

We support any policy that both sets out clear guidelines whilst also allowing designated licensing officers sensible and safe discretion when applying that policy.

We support the generality of the Policy as documented with the following observations:-

S2.4. we think that the reference to FPN requires tighter definition as we don't believe that this is intended to capture minor "offences" that are generally disposed off by FPNs (eg parking overstays).

S3.13 and S3.14. we think that the references to "any suggestion" and "suspicion" is too loose in interpretation and needs to be properly referenced – perhaps this should be drawn in to S10?

S4.3. Minor Traffic Offences. The inclusion of the wording “not normally” envisages that there might be circumstances when Minor Traffic offences will lead to an application being refused or revoked – what are they?

S4.5. Major Traffic Offences. The way this is constructed reads that all/every Offence not listed above (ie not listed in S4.3 Minor Traffic Offences) is deemed to be a Major Traffic Offence. This would/should require that S4.4 is an exhaustive list of Minor Traffic Offences. Is this the case or if not is this the intention?

S5.0. Outstanding Charge or Summons. We agree that this should be the case for new applicants but not necessarily for existing holders but we do acknowledge the principal of “Safety First”. There is no cross referencing to the Convictions Policy, perhaps some thought should be given to this?

S8.1. The way this is written implies that a first conviction is not a bar to application. Is this correct?

S8 and S9 would be better presented in the same clear format as the preceding Offence Categories.

14.0. Will all Appeals now be to Magistrates as First Instance Appeal rather than The Licensing Committee?

We are quite happy to discuss to to meet to discuss any of the above.

Authority's response:

Dear NAME REDACTED

Thank you for your considered response to the draft Suitability Policy. Your support for what we are trying to do is appreciated.

Having had time to consider your suggestions the authority's response is below.

S2.4. we think that the reference to FPN requires tighter definition as we don't believe that this is intended to capture minor "offences" that are generally disposed off by FPNs (eg parking overstays).

The definition has been left deliberately wide so as to encompass all offences which can be disposed via FPN. Although some matters can be considered minor it is believed that this is a matter for the authority to decide in relation to persons being licensed by East Herts to work in the Taxi/Private Hire trade. The authority is trying to use all sources of information to assist in decisions relating to suitability and whilst FPN's may not be a reason to take action against a licence holder it may form part of a bigger picture which indicates a pattern of behaviour or character trait that may be cause for concern. A tighter definition would also require a formal policy change to add any new matters that may be dealt with via FPN in the future.

S3.13 and S3.14. we think that the references to "any suggestion" and "suspicion" is too loose in interpretation and needs to be properly referenced – perhaps this should be drawn in to S10?

We agree that these matters sit better within section 10 which deals with non-conviction information. We have made what we believe are the appropriate amendments and the phrases "any suggestion" and "suspicion" have been removed.

S4.3. Minor Traffic Offences. The inclusion of the wording "not normally" envisages that there might be circumstances when Minor Traffic offences will lead to an application being refused or revoked – what are they?

Minor traffic offences can be taken into consideration. If there is a pattern of offending which leads to the accumulation of DVLA points or minor traffic offences add to other information of concern in relation to an individual, then this could lead to refusal or revocation. This statement is worded in this way so that it does not fetter the

discretion of the decision maker should they believe that individual circumstances warrant a refusal or revocation. To aid clarity the top box of the table at S4.3 has been amended to read "Individual offences will be considered but will not normally result in an application being refused or an existing licence being revoked" to ensure it is clear that more than one minor traffic offence may be a matter to be considered in relation to suitability.

S4.5. Major Traffic Offences. The way this is constructed reads that all/every Offence not listed above (ie not listed in S4.3 Minor Traffic Offences) is deemed to be a Major Traffic Offence. This would/should require that S4.4 is an exhaustive list of Minor Traffic Offences. Is this the case or if not is this the intention?

You are correct that every driving offence not covered within the categories listed in the categories contained within S4.4 would be considered Major Traffic Offences. S4.4 contains an exhaustive list of the categories of offence but does not contain a list of the offences which fall under each category. This is to allow for the amendment of the offences in each category without the requirement for the policy to be amended. To assist in clarity the prefix for each category of minor traffic offence has been added with details of the gov.uk website where the individual offences can be found.

S5.0. Outstanding Charge or Summons. We agree that this should be the case for new applicants but not necessarily for existing holders but we do acknowledge the principal of "Safety First". There is no cross referencing to the Convictions Policy, perhaps some thought should be given to this?

We have amended the wording in the appropriate box to read "Fitness and propriety of existing licence holder will be considered with the seriousness of matter viewed in reference to the categories contained within this policy".

S8.1. The way this is written implies that a first conviction is not a bar to application. Is this correct? & S8 and S9 would be better presented in the same clear format as the preceding Offence Categories.

The law does not allow an authority to bar an application for any reason so regardless of the type or number of convictions an individual has right to apply for a licence. We appreciate that what you are saying is that this point could be clearer as is echoed by your next suggestion.

The formatting has been changed to reflect the tabulated format used in the earlier parts of the policy and the wording has been clarified.

8.0 Discrimination offences

8.1

1 conviction for a discrimination offence in the last 7 years	Applications will be refused
1 conviction for a discrimination offence which is more than 7 years old	Application will be refused unless: <ul style="list-style-type: none"> • The applicant has no other conviction for a similar offence; AND • The applicant can demonstrate a thorough understanding of the requirements of the Equality Act 2010 (or any Act replacing or amending this Act) to the satisfaction of the issuing authority.
More than 1 conviction a discrimination offence	Applications will be refused
Existing licensed operator or driver convicted of any of the following: <ul style="list-style-type: none"> • discriminating, whether as the result of a criminal investigation or by way of a successful action in the County Court for a claim of discrimination. • refusing an assistance dog. • over-charging a passenger on the basis of their disability. • allowing a disabled passenger to travel in an unsafe manner. 	An existing licence will be revoked

8.2 Where the applicant for an operator's licence is a company or partnership a conviction for discrimination against any partner, director or secretary of that body will be considered in the same way as it would be for an individual and the licence will be revoked.

9.0 Exploitation offences

9.1

<p>Any conviction involving, related to, or that has any connection with:</p> <ul style="list-style-type: none">• Abuse;• Exploitation;• use or treatment of another individual irrespective of whether the victim or victims were adults or children.	<p>Applications will be refused</p> <p>An existing licence will be revoked</p>
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9.2 The above categories include matters such as slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse. This is not an exhaustive list.

14.0. Will all Appeals now be to Magistrates as First Instance Appeal rather than The Licensing Committee?

Appeals against decisions made in relation to taxi matters have always been and remain to Magistrates Court in the first instance and then to Crown Court.

I hope that this addresses all your points and your detailed response and the subsequent amendments to the draft policy will be put before the Licensing Committee for their consideration on 21st August 2019.

Regards

Oliver Rawlings

Service Manager – Licensing and Enforcement

RESPONSE 2

Received from the holder of the holder of a Dual Driver's Licence, 1st July 2019:

Thank you for your email. And reminding me that the council's sole role is to protect the public. Can i remind you that the drivers are the 'public' too and we need protecting.

Whilst you expect evermore improvement in us and our vehicles, some of the public you care about are getting 'scum-ier' and 'scum-ier'.

I wish there were clear rules for drivers to follow when dealing with abuse, violence and non payment.

Regards NAME REDACTED

Authority's response:

Dear NAME REDACTED

Thank you for your response to the Suitability Policy consultation.

There are rules regarding the matters that you details and they are as follows:

1. Abuse and violence - this should be reported to the Police immediately either via 101 or 999 as they are the correct people to deal with such matters. These matters should then also be notified to the licensing authority for our records, currently very little is reported by the trade so it can appear that it is not actually happening. Knowing that it has been reported to the police will allow us to liaise with the police and hopefully help towards a swift resolution.
2. Non-payment – again this should be reported to the police immediately as it is a crime. Often police officers tell drivers that it is a civil matter but this is a common misconception and it is not. The police should action the matter and give the driver a crime reference number. Again these details should be passed to the licensing authority so that we know and are able to assist where possible. We have recently written to an individual inviting them in for an interview under caution for failing to pay the soiling charge having been sick in one of our

taxis. Ultimately this may not result in payment being made but we are attempting to assist the driver.

If you would like to discuss any of the above further then please get in touch. Can I ask if you have read the draft policy as you have not made any comments regarding its content, which would be welcomed whether positive or negative.

Regards

Oliver Rawlings

Service Manager – Licensing and Enforcement

RESPONSE 3

Received from an East Herts Resident, 24th July 2019:

I feel the policy is fair and provides appropriate safeguards for users of the service.

Authority's response:

Dear NAME REDACTED

Thank you very much for taking the time to comment on the Draft Suitability policy which we recently put out for consultation. The consultation has now closed and your comment will be included in a report put before the Licensing Sub-Committee on the 21st August 2019. Your personal details will be redacted from any documents that are in the public domain.

Regards

Oliver Rawlings

Service Manager – Licensing and Enforcement