

Taxi Consultation and Licensing Policy

Report of the Head of Legal and Democratic (Portfolio: Democracy and Governance)

Recommended:

1. That the Committee considers the results of the public consultation exercise set out in Annex 1 to the report.
2. That subject to any suggested amendments, agree that the results of the consultation form the basis of a new Taxi and Private Hire Licensing Policy which will be submitted to a future meeting for approval.

SUMMARY:

- The Committee needs to consider the response to the public consultation on a new Taxi and Private Hire Licensing Policy.
- A new Policy will provide clarity for licensed operators, drivers, vehicle proprietors and the public as to how the Council will undertake its licensing functions.
- The Policy will also seek to assist the Council in making licensing decisions.

1 Introduction

- 1.1 The Council's current Hackney Carriage and Private Hire Vehicle Licensing Guidelines (Policy) was first adopted in 2007 and has been periodically revised since then. In July 2020, the Department for Transport (DfT) published Statutory Taxi and Private Hire Vehicle Standards outlining how authorities should carry out their taxi licensing functions.
- 1.2 On 23 September 2021, the Licensing Committee considered the Standards and agreed a basis for public consultation on a new Policy which would address not only those matters raised by the publication of the Standards but also a more general review of existing policies and procedures.

2 Background

- 2.1 The Council is responsible for the licensing of Hackney Carriages, Private Hire Vehicles, Operators and Drivers primarily through the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The Hackney Carriage and Private Hire Licensing Policy applies to all drivers, vehicles and operators and the Policy is intended to ensure the trade and the public have access to a document that fully explains the licensing requirements to all in a clear and transparent manner.

- 2.2 The Statutory Standards are published under s177(1) of the Policing and Crime Act 2017 and set out a framework of policies that licensing authorities must have regard to when exercising taxi licensing functions. The Standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area and the DfT expects recommendations to be implemented unless there is a compelling local reason not to.

3 Corporate Objectives and Priorities

- 3.1 Hackney Carriage and Private Hire licensing falls within the broader remit of public safety which cuts across the Council's Corporate Plan aim of supporting our communities to thrive with particular reference to the priorities of environment and prosperity. In deciding whether a driver, vehicle or operator should be issued with and then retain a licence, the overriding consideration will be the protection of the public. The Council's role in safeguarding and protecting the travelling public cannot be understated and strong measures to improve standards in the trade should be built upon and not diluted.

4 Consultations/Communications

- 4.1 A public consultation ran for seven weeks ending 7 March 2022 and included all members of the licensed taxi trade and was also sent to: Hampshire Constabulary; National Private Hire and Taxi Association; Hampshire County Council School Transport Team; and all Hampshire and neighbouring local authorities i.e., Wiltshire Council and West Berkshire Council. In addition, the Communities Team sent details of the consultation to all those organisations listed in Annex 2 to this report with a request that they share this within their existing networks.
- 4.2 A total of 143 responses were received to the online questionnaire and the results are shown in Annex 1 to the report. Most of the responses were received from members of the taxi trade or members of the public. The consultation responses highlighted that there is overall agreement for those matters which are proposed to form a new policy. There were however some exceptions to this, and these are explored in more detail below.

5 Options

5.1 Option 1

To produce a Policy which reflects the consultation responses in all areas except the policy for issuing of new hackney carriage licences (question 1).

5.2 Option 2

To produce a Policy which entirely reflects all the consultation responses.

5.3 Option 3

To resolve not to adopt a new Policy or take some other course of action.

6 Option Appraisal

- 6.1 Option 3 can be dismissed as impractical. As the September 2021 report on this matter explained, the existing licensing policies and conditions are outdated and do not take account of the DfT Statutory Standards. In their introduction to this document the DfT states they expect the Standards to be implemented “unless there is a compelling local reason not to” (1.3) and that “as the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice ... failure to adhere to the Standards without sufficient justification could be detrimental to the authority’s defence” (2.8).
- 6.2 The consultation exercise consisted of questions which either related to an aspect of the Standards or another area of licensing which had already been identified as needing review. It is proposed that those aspects will form the basis of a proposed new Policy. The Policy will set out the context within which Hackney Carriage and Private Hire vehicles operate and outline the standards required by the Council for Hackney Carriage and Private Hire vehicles, drivers, and operators. For the avoidance of doubt all the requirements shall be deemed to form both the Council’s policy (i.e., pre-requisite to the grant of a licence) as well as conditions subject to which the licence is granted (which will continue to apply throughout the duration of the licence as appropriate).
- 6.3 In all but two cases the consultation responses showed support for those matters which would potentially form the new Policy. One exception was the strengthening of the existing policy regarding exemption from displaying the vehicle plate on private hire vehicles undertaking contract and other specific work (question 17). It is the view of officers that the existing policy – which permits private hire vehicles undertaking journeys solely to specific types of destination or for specific corporate customers to be exempt from displaying the vehicle licence plate – is in some cases being used inappropriately and requires additional safeguards to ensure persons seeking such exemption are only granted it where appropriate. This would involve operators evidencing that they are undertaking such work rather than continuing with the current practice where they are merely asked to declare the fact. The consultation responses showed a majority (56%) against any change to the current policy. Accordingly, no change is proposed presently but officers will revisit this issue in the future as it is still considered an area requiring review.
- 6.4 There was one area where the consultation response was unclear; this was in relation to the policy for issuing of new hackney carriage licences (question 1) where the current policy is to restrict the number of licences issued and only allow new licences for wheelchair accessible vehicles. Consultees were given four options of either: maintaining the current limit; removing the limit but only allowing wheelchair accessible vehicles to be licensed; removing the limit and allowing any vehicles to be licensed; or another option. There was the same level of support (43%) for the options of maintaining the limit and removing the limit and allowing any vehicle to be licensed.

- 6.5 In hindsight this question should have been expanded upon or accompanied by additional information to help inform consultees with their answer. The Council can only maintain its current policy of restricting licence numbers based on there being no unmet demand; this is identified by means of undertaking a specific survey of taxi demand. The last survey undertaken in 2005 did indicate unmet demand although, increasingly, the survey results cannot be relied upon as justification for our current policy as they become more and more outdated. The government recommends that a regular, ideally triennial, survey of unmet demand be undertaken. Officers had originally put forward a bid for sufficient budgetary provision for a survey to be undertaken in 2009-10 but due to the financial situation at that time, this bid was rejected, and officers were asked to consider other means of reviewing the current policy.
- 6.6 In the absence of a survey, officers have undertaken consultation exercises the most recent being in September 2013 which was considered at a Licensing Committee meeting held in 2014. The absence of a current survey is only an issue if the Council were to impose a restriction upon issuing licences. Members should be aware that only two licences remain available for issue and the Council could at any time receive applications for those remaining licences. Any further applications received after that would have to be refused if no licences were available for issue which could result in a legal challenge which the Council would be unable to defend. Consequently, in the view of officers maintaining the current limit is not a viable option.
- 6.7 Officers were surprised by the significant support for the option of removing the limit and allowing any vehicle to be licensed. Whilst this option may seem appealing, anecdotal evidence from those authorities that have pursued such a policy suggests that complete derestriction results in a sudden dramatic increase in number of vehicles which, whilst providing more choice for customers, does not necessarily result in an overall improvement. Consequently, this option is not considered viable.
- 6.8 Although the consultation questionnaire allowed consultees to suggest further options none of the comments made offer a practical solution to the issue. Thus, the only remaining option is that of removing the restriction but retaining the policy of only issuing new licences for wheelchair accessible vehicles. Officers were surprised by the seemingly low level of consultees that supported this option (4.9%). Consequently, officers determined to undertake some targeted consultation on this particular issue and with the assistance of the Communities Team produced a further questionnaire seeking views on: the availability of wheelchair accessible taxis; whether that [lack of] availability impacts upon wheelchair users ability to access work, services and leisure activities; whether the Council should only issue new hackney licences for wheelchair accessible vehicles; and whether the Council should issue licences for vehicles that would assist ambulant disabled persons. This further consultation was sent to: Enham Trust; Carers Together; #NeedsToo; Mencap; Romsey Disabled Peoples Partnership; Koala Community Hub; and Andover 21. These are the major disability groups within the Borough.

- 6.9 A copy of the consultation questions and results is attached as Annex 3 to this report. The responses were from care home residents, those living independently and a group response from the Enham Trust on behalf of all those people they support. Whilst the overall response rate is small, a clear majority: indicate a difficulty in booking a wheelchair accessible vehicle; confirm that the shortage of suitable vehicles causes them practical difficulties; is supportive of the council only issuing new licences for wheelchair accessible taxis; and supports the council issuing licences for vehicles that could be used by ambulant disabled persons. The Enham Program Manager makes the comment that “there should be no limits on the amount of licences given out to accessible vehicles, as more of these are needed.”
- 6.10 There are further matters to be considered when addressing the policy on issue of hackney licences as set out in Annex 4. Having taken all these matters into consideration, officers recommend approving Option 1 namely to develop a Policy which reflects the consultation responses in all areas except in respect of question 1 regarding the policy for issuing of new hackney carriage licences. Whilst this would result in a policy which does not entirely reflect the results of the initial consultation, such a policy does take account of the further targeted consultation and the factors set out in Annex 4. As such, officers believe this provides the Council with justification for pursuing this policy which can be robustly defended if challenged.
- 6.11 There is a clear expectation that licensing authorities will introduce policies which encompass the DfT Standards. In the matter of criminal convictions, the current policy – adopted in March 2020 – matches the Standards in most areas apart from the following:

Offence	DfT Standards	Current TVBC Policy
Possession of a weapon	Grant licence seven years after sentence	Grant after five years
Dishonesty	Grant licence seven years after sentence	Grant after five years
Drugs - supply	Grant licence ten years after sentence	Refuse to grant
Drugs - possession	Grant licence five years after sentence	Grant after ten years
Discrimination	Grant licence seven years after sentence	Grant after ten years
Motoring	No specific period stated	Grant one year after sentence if one conviction or three years if more than one
Drink/drug driving	Grant licence seven years after sentence	Grant after five years

The public consultation questionnaire (question 13) specifically asked if, having taken account of the differences detailed above, the Council should keep the current limits or adopt whichever is the stricter limit. A clear majority (54.9%) of respondents stated the current limits should be maintained. It is the view of officers that this provides sufficient justification for the Council maintaining a Policy which does not entirely reflect the DfT Standards.

7 Resource Implications

- 7.1 The process of developing and adopting a new Policy will not in itself create any resource implications. However, there may be new policy requirements which will have implications for the taxi trade and officers. These will be examined in more detail when a proposed Policy is brought to this Committee for adoption. The hackney carriage and private hire licensing function is operated on a cost recovery basis and fees are set at a level which covers the Council's costs in providing the function.
- 7.2 Any new policy may also create a resource implication for officers in that there might be additional requirements upon the trade which will need to be administered and enforced. Existing working practices may in some cases require amendment to ensure that the authority complies with the Standards. Again, these issues will be addressed in more detail at the time the Committee is presented with a new Policy for adoption.

8 Legal Implications

- 8.1 Any proposed new Policy will be drafted to reflect current legislative requirements and statutory guidance. The Policy must be taken into consideration when making decisions in respect of matters relating to hackney carriage and private hire vehicle licensing.

9 Equality Issues

- 9.1 The need to undertake an Equalities Impact Assessment will be considered taking into account whether there are any perceived major impacts from adoption of a proposed new Policy. The Department for Transport carried out an Impact Assessment which included Equalities Impact consideration prior to introducing the Standards. That assessment included the following:
- 9.2 130.0 The Jay and Casey reports demonstrate that not all councils apply the same high standards when undertaking their taxi and private hire vehicle licensing functions. To address this the Police and Crime Act 2017 enabled the Secretary of State for Transport to issue statutory standards to local authorities.
- 9.3 131. Whilst we are aware that the statutory standards may impact disproportionately a higher level of ethnic minorities in some areas due to the makeup of the taxi and private hire trade, any possible negative impacts on minority licensees must be weighed up proportionately against the legitimate aim of protecting children and vulnerable adults from harm through the use of licensing authorities' powers.

- 9.4 132. It is expected that the standards will be applied equitably but this is the responsibility of local authorities and could be subject to challenge. We expect that both drivers and passengers will benefit from a safer environment in which to travel. We also expect that the policy will increase user confidence and may facilitate higher passenger demand from more vulnerable groups such as older or disabled people.
- 9.5 Overall, the adoption of a new Policy and Licence conditions is expected to produce a positive impact (and certainly not a negative impact) for those with protected characteristics. Specifically, if the Committee agrees with the recommended continuation of the existing policy of only issuing additional new hackney carriage licences for wheelchair accessible vehicles this will undoubtedly benefit wheelchair users and other disabled persons.

10 Other Issues

- 10.1 Community Safety – nothing specific although the significance of promoting safeguarding is paramount. The new Policy should ensure the appropriate balances and mitigations are in place to minimise risk to public safety whilst enabling businesses to trade effectively, efficiently and legally.
- 10.2 Environmental Health Issues – none identified.
- 10.3 Sustainability and Addressing a Changing Climate – none identified.
- 10.4 Property Issues – none identified.
- 10.5 Wards/Communities Affected – potentially the whole Borough.

11 Conclusion

- 11.1 A modern robust Policy is essential for the efficient administration of the hackney carriage and private hire vehicle licensing function. There is a clear expectation that local authorities will, unless there is a compelling reason to the contrary, have policies which reflect the DfT Statutory Standards. With that in mind the Committee is recommended to consider the results of the public consultation exercise at Annex 1 and subject to any further amendments it considers necessary, approve the production of a new Policy based on those consultation responses.

Background Papers (Local Government Act 1972 Section 100D)

Minutes of the meeting of the Licensing Committee 21 September 2021

Department for Transport Statutory Taxi and Private Hire Vehicle Standards

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:

4

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File Ref:

N/A

Report to:

Licensing Committee

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