

SUBJECT:	Draft Hackney Carriage & Private Hire Licensing Policy
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1. Purpose of Report

- 1.1 This report is to provide the committee with the draft hackney carriage and private hire licensing policy document for approval for consultation.

RECOMMENDATION

- 1.2 It is recommended that
- i) The attached draft hackney carriage and private hire licensing policy in Appendix 1 be approved for consultation.
 - ii) consultation to be carried out over a 12 week period to enable all interested parties to submit comments to the Council.
 - iii) The results of the consultation to be reported back to the Licensing Committee, for further consideration and referred to Full Council for adoption once agreed by Licensing Committee.

2. Reasons for Recommendations

- 2.1 The Council's hackney carriage and private hire licensing policy was last reviewed fully in February 2014 (although some sections had been reviewed and amended more recently), so a review including a public consultation as part of that review at this time is appropriate.

3. Background

- 3.1 The Council licenses hackney carriage vehicles and private hire vehicles under two main pieces of legislation – the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The main aim of the licensing regime is to protect the public at all times. It is important that anyone using a licensed hackney carriage or private hire vehicle should be confident that the driver does not pose a risk to their safety, and that the vehicle is also safe and roadworthy.
- 3.3 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that a 'district council shall not grant a drivers licence to drive a private hire vehicle or hackney carriage vehicle unless they are satisfied that an applicant is a fit

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and proper person'. In order for a driver to show they are a fit and proper person they must provide evidence of driver standard, medical fitness and criminal history.

- 3.4 The Department for Transport issues guidance to assist local authorities on matters in relation to hackney carriage and private hire licensing titled 'taxi and private hire vehicle licensing: best practice guidance' which was last updated in 2010. This guidance is considered as part of the process of forming the policy and reviewing it, and states that the policy must be kept under review and the Council may make such revisions to it as it considers appropriate.
- 3.5 Although it has only been 2 years since the last full review of the policy, there have been significant changes to legislation, case law, and to the way that the Council delivers licensing services as part of the shared services programme. Therefore, the draft policy is significantly different in format and content, when compared to the previous version.
- 3.6 A significant reason for reviewing the policy at this time is to ensure that the Council has reviewed its policy in line with the recommendations following the Casey Review in the CSE in Rotherham and findings of Operation Bullfinch in Oxfordshire in which taxis have played a significant role.
- 3.7 Whilst the structure of the policy has not changed, given the significant changes that have been made, it is not possible to indicate where changes have been made on the draft policy to aid comparison and therefore the key changes are identified below.

4. Key Changes

- 4.1 Training as a requirement (p7)
- 4.2 The draft policy places more emphasis on an increased requirement for training and particularly safeguarding related training. The Council has recently undertaken training for all drivers on safeguarding, with a particular focus on child sexual exploitation which is recognised to be an issue of national significance. There are a number of examples where the hackney and private hire trade has been used to assist offenders for this sort of criminal activity, most notably Rotherham and Oxfordshire.
- 4.3 Payment of fees (p7)
- 4.4 A new requirement has been proposed, where payment for licences and connected fees must be made by debit or credit card, this is to encourage payments to be made at time of application using the automated online system which will increase the efficiency of the Council in processing payments and licences, and will increase the ease that payments can be traced when necessary. This requirement reduces the time that customer services will need to spend dealing with applicants and also reduces the opportunity for tax avoidance or similar cash related offences.
- 4.5 Additional Safeguarding Information (p9)

Child Sexual Exploitation and other abuse of vulnerable groups within our communities is clearly a concern that the Council takes very seriously, there have been many significant cases which have come to light in the past few years and some of these have involved members of the taxi and private hire trade. Training has been provided to many drivers and this will continue to be rolled out in the future, it is valuable to also include details of what this is and how to report such concerns within the policy.

4.6 Disclosure and Barring Service (DBS) Checks (p12)

The draft policy requires drivers to sign up for the DBS update service. This service allows individuals to keep their criminal record check 'live' by paying an annual fee. The annual fee is currently £13.00; once signed up a License Holder would not need to have a full criminal record check carried out every 3 years, saving them the cost of the charge for this (currently £52.50). A further benefit to the applicant is that the update service is fully transferrable, so if they hold licences for other districts, or carry out any other activity that requires a criminal record check to be completed such as volunteer work they only need to have one full criminal record check. Therefore, this service provides a cost saving to applicants. A further benefit for the applicant is that it ensures that their criminal record check does not go out of date, avoiding potential delays caused by failure to apply in time or slow processing of full DBS checks. This therefore removes any potential that drivers may be suspended for failure to keep this check up to date.

4.7 In addition to the benefits experienced by the customer increased efficiencies would also be achieved as the general processing of DBS would be faster and reduce the level of contact required with the customer as they would no longer be required to complete DBS applications and submit their documents when these are due to be checked. The process of chasing drivers for updated DBS certificates and issuing suspensions if necessary can also be time consuming. The potential for appeals will be reduced as there will be less likelihood of suspensions being issued. The Council also benefits from being able to carry out criminal record checks more often, including random checks as a way of ensuring licensees remain fit and proper.

4.8 Dual Drivers licences (p13)

These licences allow drivers to drive both hackney carriage and private hire vehicles, these have been previously used by the Council, but have not been included in the current policy (adopted in 2012) as there were concerns at the time of review that these licences potentially could lead to difficulties in taking enforcement action when necessary this is because dual licences are not legislated for. However these are used by many other authorities and there has not been any case nationally where this has proven to lead to such issues. The issue of dual licences is therefore considered to be an administrative approach to increasing the efficiency and reducing the cost of issuing the two licences to one applicant.

The issuing of dual licences increases the efficiency of the licensing process and enables resources to be diverted to monitoring compliance. Potentially there may also be a reduction in the application or renewal fee to the dual licence applicant when compared with the cost of two separate licences being issued.

There is no current case law which indicates that the issue of dual licences is likely to lead to any difficulties when the Council is seeking to ensure compliance with the relevant conditions or bylaws of related licences. There can be no doubt as to which licence is being used by a dual licence holder as vehicles cannot be dual plated, and therefore the driver will be using the relevant licence according to the vehicle that they are using. For clarity, a short section on dual licences is provided in the draft policy.

4.9 Vehicle age policy

The current vehicle age policy provides an exception for vehicles that can pass a compliance test, which is the mechanical test required at least annually for all licensed vehicles. This policy largely negates the purpose of an age policy, although it does place a requirement on vehicle owners to have more regular tests carried out throughout the year.

The draft policy has a much tighter vehicle age policy, which requires vehicles to be no older than 7 years when they are first licensed, and no older than 10 years for renewing, which means that there would be no older vehicles licensed unless they meet much more stringent standards – where the vehicle is considered to be of an ‘exceptional standard’ which are specified in detail within the policy. This will increase the standard of the vehicles being used as it will reduce the age of vehicles within the fleet and ensure that older vehicles meet a very high standard and continue to be checked more frequently.

4.5 Discount for wheelchair accessible vehicles

A 50% discount is currently provided to fuel efficient vehicles (as defined in the policy) to support the Council’s aim to promote sustainability. The draft policy extends this discount for wheelchair accessible vehicles (WAV) that meet the policies requirements. Despite an existing requirement for new hackney plates to only be issued for WAVs currently there are only a small number of these types of vehicle in the hackney fleet and the same is true for the private hire fleet.

There are no requirements for private hire vehicles to be WAVs and so a 50% reduction in the licence fee would introduce an incentive to licensees to buy this type of vehicle. This supports the Council’s aims for healthier communities and customer focused services

4.10 Conviction policy (p17)

The conviction policy has been tightened up so that it will be more difficult for applicants with a criminal history to obtain a licence, and similarly offences committed by existing licence holders are also more likely to lead to the more severe action taken against their licence. A comparison between the current and proposed conviction policies is attached in Appendix 2)

4.11 Expedition policy regarding revocation of Licences (p31)

The new policy includes guidance on how the Council will deal with individuals who have had their drivers licence revoked due to serious public safety concerns but which

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have, on investigation, been proven to the Council to be unfounded. In these cases the Council would seek to issue a replacement licence as soon as possible, subject to checks, and so it is helpful to have a policy in place to assist in this. In the past these issues may have been dealt with by a suspension, which would then have been lifted if the concerns have proven to be unfounded, but case law now requires that a licence be revoked in such situations.

4.12 CCTV policy (p32)

The current CCTV policy is considered to be dated and no longer fit for purpose (as CCTV technology is developing all the time) Therefore this has been reviewed and The new version proposed is in line with the CCTV policy that has recently been adopted by Transport for London, which has responsibility for the largest fleet of vehicles for hackney carriage and private hire licensing nationally.

4.13 Enforcement policy (p39)

The current policy has a 'card' system where amber and red cards are issued for the most common types of breaches of policy or law. This allows a consistent approach to enforcement which is transparent and easy to understand. However, some breaches are considered to immediately lead to a red card, which would mean a consideration to suspend or revoke the licence as these breaches would be of a serious nature. Given that this is the case, it is not considered necessary to issue a red card in these circumstances and the policy has been amended to reflect this. The terminology of amber and red cards has also been amended and points are referred to in their place as this is considered to be more suitable for a hackney/private hire driver's licence in the same way that points are issued against a DVLA licence.

4.14 Executive plate replaced with Dispensation

Currently Executive plates are provided to drivers for an additional fee of £65. These are small gold coloured plates which can be provided to private hire vehicles. These are very popular with licensees (117 out of 127 vehicles currently licensed have small plates), but make the details of the plate harder to read for customers and members of the public.

Dispensation is an alternative to executive plating and would not require a plate to be displayed at all, as long as the requirements are met for this to be issued; the requirements for dispensation relate to the type of work that a vehicle is used for. Dispensation would only be permitted for vehicles that are used for contract work with suitable clients the large majority of the time, so vehicles with dispensation would not generally be expected to be used for completing bookings made directly by individual members of the public.

5. Corporate Implications

5.1 Financial

The cost of the necessary consultation will involve staff time and resources but these costs will be met within the existing budget.

The draft policy maintains the provision of a 50% reduction in fees for wheelchair accessible vehicles and fuel efficient vehicles, as the Council is unable to recover this 50% loss of income by increasing the price of other licences issued, this will prevent full cost recovery from being achieved in relation to these licences. However, as there is currently a small number of these vehicles being used, the financial impact of this is currently minimal and this is an aspect of the policy and the fees structure that should be reviewed in the future if there are significant changes to the makeup of the fleet in these regards.

Moving from executive plates to dispensation would lead to more stringent requirements for this to be granted and it is expected that less vehicles would meet these requirements meaning a drop in income for those vehicles where the additional £65 is currently received, but would not be under the new policy, The total income raised by provision of the small plates is £7605 per year.

5.2 Legal

The policy affects the approach that the Council will be taking for hackney carriage and private hire licensing. This will impact on the level of compliance and enforcement actions taken.

Equalities Act 2010

The impact of the policy on equalities has been considered whilst conducting the review, and no adverse equality issues have been identified as a result so no further action or mitigation is considered necessary.

6. Links to Council Policy Objectives

6.1 The publication of an effective hackney carriage and private hire policy links to all 3 of the Councils headline objectives:

1. Delivering cost- effective, customer- focused services
2. Working towards safe and healthier local communities
3. Striving to conserve the environment and promote sustainability.

7. Next Steps

The next steps will be as stated in the recommendations.

Background Papers:	Hackney carriage & private hire policy adopted 26th February 2014. Taxi and private hire vehicle licensing: best practice guidance 2 March 2010.
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