

<b>SUBJECT:</b>	<b>Hackney carriage &amp; private hire licensing policy</b>
<b>REPORT OF:</b>	Interim Director of Services – Anita Cacchioli
<b>RESPONSIBLE OFFICER</b>	Head of Healthy Communities – Martin Holt
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<b>WARD/S AFFECTED</b>	All

## 1. Purpose of Report

- 1.1 This report is to provide the Committee with details of the responses to the 12 week consultation that took place on the draft Hackney carriage and private hire licensing policy, so that these can be considered so that the draft policy can be finalised and recommended for adoption by Council.
- 1.2 Some changes have been proposed to the draft policy as a result of the responses received, and these are detailed in the report and attached draft policy for Members approval.
- 1.3 **RECOMMENDATION**
- 1.4 It is recommended that
- i) The Committee reviews the consultation responses and the proposed amendments to the draft policy as indicated in Appendix 1.
  - ii) The Committee advises whether further changes should be made to the draft policy in line with the consultation responses, with any further minor changes to be agreed by the Head of Healthy Communities in consultation with the Chairman of the Licensing & Regulation Committee prior to recommendation to Council.
  - iii) Members give particular attention to door stickers, window tint levels and vehicle age as significant concern has been raised regarding these aspects of the draft policy.
  - iv) A recommendation be made to Council to adopt the revised draft policy once changes have been agreed in line with the above recommendations.

## 2. Reasons for Recommendations

- 2.1 Once recommendations i), ii) and iii) have been followed, the responses to the consultation will have been given full consideration, any appropriate changes considered will have been made to the draft policy and it will be fit to be recommended for adoption by Council.

## 3. Background

- 3.1 A review of the Council's adopted Hackney carriage and private hire policy was previously by the Licensing & Regulation Committee on 28<sup>th</sup> June 2016 and the draft policy approved for consultation by the Committee.
- 3.2 A 12 week consultation period for the draft policy concluded on the 21<sup>st</sup> September 2016.
- 3.3 Consultation with the trade included direct text messaging and a letter to all licensed drivers and operators. The wider consultation involved a dedicated web page on the Council's website, use of

social media, and emails to the Police, Highways Authority, neighbouring authorities and interested stakeholders e.g. residents groups.

3.4 Two meetings were held with Chiltern Taxi Drivers Association; one was chaired by the Licensing & Regulation Committee Chairman and attended by 51 members of the trade and an informal drop in session for members of the trade was held during the consultation to allow any clarifications or items to be considered. Officers were available throughout this day so that members of the trade could attend as and when able to do so; officers of the Licensing team were available to answer questions the trade had in relation to the draft policy and consultation process.

3.5 There were 12 responses to the consultation, the breakdown of these is shown in the table below:

Respondent	No. of Responses
Minuted Trade Association Meetings	2
Individual trade responses	5
Council departments	2
Other Local Authorities	2
Other	1

3.6 It is important to note that the minutes of the trade association represent the views of at least 51 drivers as this was the attendance at the first meeting. Therefore where objections were made by the Chiltern Taxi Drivers Association, this is advised throughout the report and in the related appendices to ensure that it is clear that this is the case.

3.7 The overall summary of the comments made in relation to the draft policy and more general comments have been collated and provided as Appendix 2.

3.8 A response which was received from another licensing authority is not included with the report as it made suggested amendments (listed in Appendix 2) throughout the full draft policy, a copy of this response with these draft amendments is available on request. These were generally minor amendments, which have been considered and addressed and suggested minor amendments made to the draft policy. All of the other original responses (as submitted to the Council) from the trade and other stakeholders are attached as Appendix 3 and minutes of the meetings held with trade association are attached as Appendix 4. The minutes attached were taken contemporaneously and were circulated to the trade representatives that attended each meeting and have been agreed as an accurate reflection of the discussions that took place.

#### 4. **Draft policy amendments following consultation**

4.1 Following consideration of the responses to the consultation, a number of changes (including typographical errors and words of clarification) are proposed to the draft policy, many of these are explained in Appendix 2, with reference to pages that have been amended in the draft policy.

4.2 Significant concerns were raised by the trade with regards to 3 issues which the Council has direct control over through its policy – door stickers, vehicle age and window tints. Given the complex nature in relation to decisions on these issues, further information is provided on each below so that Members can consider whether they are in agreement with the revised draft policy as it is presented in Appendix 1, or would prefer further changes to be made.

#### 4.3 **Window tints**

- 4.3.1 Trade respondents generally felt that the current policy on tints is unfair, and cited that many modern vehicles are produced with higher tint levels than the Council permits. The argument is made that if the tints are legally acceptable, why should licensed vehicles have to have these replaced. However a key point is that vehicles are manufactured for general use and not specifically for use as licensed private hire or hackney carriage vehicles. Purposely built hackney carriage vehicles do not have tinted windows.
- 4.3.2 However, respondents' views were that more and more vehicles are being produced with darker tints, particularly multi-purpose vehicles (MPVs) such as higher spec'd Ford Galaxys and Mercedes Vitos, which are popular due to their seating capacity. Although some models would normally fall outside of the required tint levels, there are a large number of these vehicles on the fleet currently, which will be due to these being lower spec models, or owners paying to have the tinted windows replaced. According to respondents, the cost of replacing these windows is potentially around £1000, which is an additional financial burden when replacing their vehicle, if replacement vehicles have unacceptable tints at time of purchase, and may mean that they choose older or lower quality vehicles as a result.
- 4.3.3 The current restriction for tinted windows has not changed and appears in the draft policy as follows:
- Glazing** All vehicles will be tested with a light meter. Any vehicle with a reading lower than the following will not be licensed. Front Windscreen 75%, Front Side Windows 70%, All other Windows 30%. The lower the number the darker the tint*
- 4.3.4 Appendix 5 shows the tint levels for a variety of vehicles that are popular within the trade. It shows that the majority of vehicles are suitable under the current tint requirements.
- 4.3.5 There is no case specific evidence available to show that tinted windows have been a factor in any recorded offences being committed in taxis. Although it can be reasonably accepted that windows which allow better vision into a vehicle do provide protection to both the driver and the passengers as it is more likely that any incidents and/or offences may be witnessed by someone outside of the vehicle.
- 4.3.6 The tinting of vehicles is linked to minimising solar gain and the use of air-conditioning and fuel economy, which is connected to the Council's aims of promoting sustainability and could be considered to increase the comfort of the passenger.
- 4.3.7 Given the considerations above, together with the information provided in Appendix 4, currently no change has been made to the draft policy.

#### **4.4 Door Stickers**

- 4.4.1 National legislation and case law make it clear that 'a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.' And this therefore supports the use of door stickers and similar distinguishing features (such as vehicle colour in some areas) to make it obvious as to the district that a vehicle is licensed by.
- 4.4.2 There are various pros and cons associated with the requirement to have door stickers, the points raised in the consultation are highlighted below, together with other relevant information.
- 4.4.3 Respondents generally accepted the need for door stickers on private hire vehicles, but felt that they are unnecessary on hackney carriages. Respondents also pointed to the fact that many other

authorities do not require door stickers. The table below shows the current situation for other nearby council areas:

<b>Council area</b>	<b>Door stickers for HCV</b>	<b>Door Stickers for PHV</b>
Aylesbury Vale	No	Yes
Wycombe	No	Yes
Watford	Yes	Yes
Reading	Yes	Yes
West Berkshire	Yes	No
Wokingham	No	No
Slough	Voluntary (none taken up)	Voluntary (none taken up)
Bracknell Forest	Voluntary	Voluntary
South Bucks	Yes	Yes

Table 2

- 4.4.4 Table 2 shows that there is no standard approach across authorities in their policies with regards to door stickers, there is also significant variance with regards to the design of door stickers.
- 4.4.5 Some of the responses have suggested that door stickers have led to their car being broken into with the perception being that as they are a licensed vehicle it is more likely that money may have been left in them.
- 4.4.6 Door stickers clearly identify to the passenger that the vehicle is a licensed hackney carriage and able to ply for hire in the district.
- 4.4.7 Door stickers include the plate number, this makes it easier for members of the public and for the Council to identify vehicles when necessary.
- 4.4.8 The door stickers currently include a partnership 'together we can' logo and the Thames Valley Police logo. It is felt that these logos are reassuring to members of the public as an indication that the council works with partner agencies, including the police and that all licensed vehicles and drivers are required to undergo regular checks.
- 4.4.9 The design of the door stickers is part of the concern of the trade, and the view expressed by the Chiltern Taxi Drivers Association is that the police logo being displayed on the sticker criminalises the drivers. Drivers all have to have criminal record checks and this is considered to negate the requirement for door stickers. The Trade has been very clear that its view is that requiring these door stickers in their current design is a form of indirect discrimination, because the large majority of the drivers are Asian. This view is not supported by the Equality Impact Assessment conducted in relation to the draft policy, and is considered to be the perception of the objectors.
- 4.4.10 In addition to the design concerns of the stickers, another argument against these stickers is that they lead to damage being done to the car when removed, particularly with regards to the paintwork fading. Whilst this is accepted as a possible impact of the door stickers when a vehicle is licensed for a sustained period of time, the Council may consider it to be an unfortunate consequence of this requirement, but one which does not justify the removal of the requirement from the current policy and would have to be accepted by the vehicle owner as a consequence when considering to get the vehicle licensed.
- 4.4.11 Many of the Chiltern hackney carriage drivers work for operators, as well as taking their own jobs off of the ranks and in these cases their vehicles usually bear door stickers which display the company

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that they work for. Therefore there is no difference in the impact that these stickers have on potential damage to the vehicle and the Council's door stickers.

4.4.12 Chiltern District Council and South Bucks District Council are currently undergoing a rebranding exercise as part of the shared service programme, it would be possible to review the design of door stickers as part of this exercise if considered valuable to do so.

4.4.13 Following consideration of the consultation responses and the other information above it is recommended that door stickers continue to be required to be displayed on hackney carriages and private hire vehicles.

#### **4.5 Vehicle age**

4.5.1 The current policy includes the following age requirements:

*Vehicle age policy*

*At the time a vehicle is first licensed (including changes of vehicles if not to a currently licensed vehicle) the vehicle must normally be less than 7 years of age. The vehicles age will be determined by the vehicle registration document. The age limit may be exceeded if the vehicle complies with all applicable standards. Once a vehicle reaches 12 years of age the licence will only be renewed if the vehicle has passed 3 compliance tests each year, at approximately 4 monthly intervals.*

4.5.2 The Council therefore expects vehicles to be no older than 7 years when first licensed. However, in practice, as all vehicles are required to pass compliance tests, this age restriction becomes almost meaningless. The draft policy still maintains the 7 year age requirement, but makes it much more exceptional for older vehicles to be licensed.

4.5.3 The proposed vehicle age policy has the requirements below:

*Vehicle age policy*

*AP.1 Subject to paragraph AP.4, a licence shall not be granted in respect of any vehicle which is more than seven (7) years old in the case of an application for a new hackney carriage or private hire vehicle licence in respect of the vehicle and more than ten (10) years old in the case of an application for the renewal of a licence*

*AP.2 Subject to paragraph and AP.4, the Council will not allow the transfer of a licence to a vehicle which is more than seven (7) years old*

*AP.3 Under paragraphs AP.1 and AP.2 the age of the vehicle shall be calculated with reference to the registration documentation for the vehicle.*

*AP.4 With reference to the ages of vehicles, in the case of purpose built hackney carriages and of vehicles which are considered to be of an 'exceptional standard' each application will be considered on its own merits prior to a determination being made. The maximum age for licensing of these vehicles shall be twelve (12) years.*

4.5.3 A response was received from the Council's Principal Environmental Protection Officer which related to the vehicle age restrictions proposed and stated:

*Many studies have found that the vehicles that polluted the most tended to be those that were older models, had higher mileage, poorer fuel economy, and were less-well-maintained. Therefore restricting older vehicles is supported.*

- 4.5.4 7 objections, including objections raised at the 2 meetings with the Chiltern Taxi Drivers Association, were received with regards to the strengthening of the vehicle age requirements. 1 of the objectors to this aspect of the policy states that their vehicle is over the 12 year maximum proposed and they intend to work until they or the car wears out. Although they went on to say that the car is kept clean and well maintained.
- 4.5.5 A large number of vehicles (127 of 320 - 39% of the licensed vehicles are over 10 years old) would be affected by the change of the policy in this regards, although it is not possible to determine how many of these would meet the 'exceptional standard' that would be required for a vehicle to be licensed for an additional 2 years. However, this part of the draft policy would only affect existing licence holders when they come to change their vehicle.
- 4.5.6 Information is provided in appendix 6 in relation to the impact of age and mileage on reliability of vehicles to assist Members, however unfortunately it is very difficult to establish the true impact of a vehicles age and reliability for a number of reasons. The main issue is that there does not appear to be suitable data to truly show what happens to vehicles' reliability as they get older. Therefore, Members must consider the likely impact of age on a vehicle's reliability based on their knowledge and experience of such issues.
- 4.5.7 The options available to Members are to:
- 1) adopt the proposed age condition in the draft policy or
  - 2) to retain the existing age condition and incorporate this in to the draft policy
  - 3) to determine an alternative to the proposed or current age policies.

## **5. Issues raised during consultation that are not relevant to the review of the current Policy**

- 5.1 A number of issues were raised by the trade as part of their responses to the consultation which are not related to the draft policy, but it is accepted that there are shared concerns within the trade in relation to the issues which frequently featured in responses, so these are highlighted to the committee below.
- 5.2 There has been a variety of concerns expressed by the trade in relation to the way that the Council is currently delivering its Licensing functions. Where possible, these concerns have been responded to during the consultation, but if individuals continue to have concerns the Councils formal complaints procedure is the appropriate way for these to be dealt with.
- 5.3 Size and quality of driver's badges, the CTDA has expressed that drivers would like something smaller and smarter than what they currently have. The draft policy does not provide specific information as to the nature of the badge and this is an operational issue. Alternative badges are being investigated, but the Council must ensure that any alternative option does not increase costs or affect efficiency as this will have a negative impact on the Licensees.

## **6. Corporate Implications**

- 6.1 Legal

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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.

## 6.2 Equalities Act 2010

The impact of the policy on equalities has been considered whilst conducting the review, and no adverse equality issues were identified at the time that the draft policy was revised and approved for consultation. However, during the consultation a number of responses highlighted significant concerns that the draft policy was indirectly discriminatory, specifically in relation to ethnicity and religion, so the original Equalities Impact Assessment (EIA) carried out was reviewed in light of these concerns.

More detail is contained within the main body of this EIA report attached at appendix 7 but in summary, the EIA established that whilst the majority of individuals who hold licences are of Asian ethnicity, the draft policy is not discriminatory as it is applied evenly to all licensees irrelevant of their ethnicity or religion and it is necessary to have a robust policy in place in order to effectively regulate the licensing of hackney carriage and private hire to ensure that the council meets its responsibilities to protect the public.

## 7. Links to Council Policy Objectives

7.1 The publication of an effective Hackney carriage and private hire policy links to all 3 of the Council's 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.

## 8. Next Steps

The next steps will be as stated in the recommendations.

<b>Background Papers:</b>	<p>Draft Chiltern District Council Hackney Carriage and Private Hire Policy as agreed for consultation by the Licensing &amp; Regulation Committee on 28th June 2016</p> <p>Hackney carriage &amp; private hire licensing policy &amp; associated documentation adopted 26th February 2014.</p> <p>Taxi and private hire vehicle licensing: best practice guidance 2 March 2010.</p>
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