

<b>SUBJECT:</b>	<b>Draft Hackney Carriage &amp; Private Hire Licensing Policy</b>
<b>REPORT OF:</b>	Interim Director of Services – Anita Cacchioli
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<b>WARD/S AFFECTED</b>	All

## 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 April 2011(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 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 It has been 5 years since the last full review of the policy, and 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 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 Dual Drivers licences (p13)**

These licences allow drivers to drive both hackney carriage and private hire vehicles, although these are currently issued, dual licences are not legislated for, but are used in many other authorities.

The issue 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.

##### **4.2 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.

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.

#### 4.3 Conviction Policy (p17)

The previous policy relied on the 'spent' periods contained within the Rehabilitation Act 1974 as guidance for how offences would be considered when determining applications. However, this means that changes to the Rehabilitation of Offenders Act can affect the Council's approach to determining licensing applications and this approach also makes it difficult to make the timescales regarding spent periods clear to potential applicants. It is therefore proposed that clear periods be established as part of the policy and these have been suggested in the draft policy attached. Further detail on the comparison between the time periods considered are shown in Appendix 2

#### 4.4 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 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, 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.

#### 4.5 Requirement for hackney vehicles to be wheelchair accessible (p54)

To increase the numbers of Hackney Carriage vehicles operating in the district that are wheelchair accessible, it is recommended that the policy is changed to require that *'only vehicles that are wheel chair accessible may be licenced as Hackney Carriage'* This policy change has been requested by the hackney trade for South Bucks and could lead to an increase in the number of wheelchair accessible vehicles which are currently in short supply for south bucks residents. The Licensing team occasionally receives requests for information on providers of this service and at the moment there are only 2 wheelchair accessible vehicle licensed as a hackney carriage

#### 4.6 Training as a requirement (p7)

There are a number of examples where the hackney and private hire trade has been used to assist offenders involved in criminal activity, most notably Rotherham and Oxfordshire.

The draft policy places more emphasis on an increased requirement for training and particularly safeguarding related training so that drivers are aware of the risks involved in plying their trade. Raising awareness should reduce the potential for offending behaviour.

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.

### 4.7 CCTV policy (p32)

The Council has not previously had a CCTV policy within its hackney carriage and private hire policy. The introduction of this policy is to ensure that if vehicle proprietors do decide that they would like to install systems into their vehicles, there is clear guidance that can be followed. The key aspect of this is the requirement for the Council to agree the installation of such systems prior to use which will ensure that any such systems used are appropriate.

### 4.8 Payment of fees (p7)

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.

### 4.9 Internal plates (p79)

Internal plates can be provided with vehicle licences. These assist passengers as they are able to see the details of the licence whilst inside the vehicle.

### 4.10 Fixing of plates to vehicles (p65 and p72)

Currently, plates can be attached to vehicles using a bracket provided by the Council at the time of first licensing or can be attached to the vehicles with double sided tape. The new policy introduces a requirement to use a bracket, or to ensure that the plate is permanently fixed to the vehicle by it being screwed onto the bumper of the vehicle. This reduces the likelihood of plates falling off of vehicles or being removed intentionally.

### 4.11 App's

As mobile applications support improved safety and the customer journey/service it is proposed to enable these to be used with South Bucks District, whilst allowing the Council to monitor and approve the type of App being used to avoid inappropriate advertising.

## 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.

The introduction of internal plates for licensed vehicles will lead to a slight increase in the cost of vehicle licences, but the value of this in terms of public safety is considered to justify this, and the cost of this and other aspects of hackney carriage and private hire licensing will be considered when fees are reviewed in the future.

## 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.

<b>Background Papers:</b>	Hackney carriage & private hire licensing policy & associated documentation adopted 11th December 2007. Review 12th April 2011.  Taxi and private hire vehicle licensing: best practice guidance 2 March 2010.
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