



Report to Communities & Localism Select Committee

Date: 24th September 2020

Reference number: N/A

Title: Update on the development of the Buckinghamshire Council Taxi and Private Hire Licensing Policy

Relevant councillor(s): Cllr Fred Wilson, Cabinet Member for Regulatory Services, Cllr Carl Jackson, Chair of Licensing Committee

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Ward(s) affected: N/A

Recommendations: To note and comment on the content of the report, no decision required.

Reason for decision: N/A

Executive summary

- 1.1 The Council's taxi and private hire licensing policy is an important document that demonstrates the Council's commitment to securing public safety, provides clarity for applicants and licence holders, assists decision making, facilitates enforcement activities and helps safeguard against legal challenge. The creation of Buckinghamshire Council presents an opportunity to create a new policy that incorporates the new statutory taxi and private hire vehicle standards, promotes the highest possible standards to secure public safety, supports the Council's key priorities of protecting the vulnerable and improving the environment and promotes the local economy. A new draft policy document is being prepared, ready for consultation later this year, with a view to adoption next year.

Content of report

- 1.2 The purpose of licensing private hire and hackney carriage (taxi) operations is to ensure that the travelling public are provided with a safe and accessible means of transport. Public safety should always be the primary consideration when making licence decisions concerning the licensing of drivers, vehicles and operators. The Council's taxi and private hire licensing policy plays an integral part in both securing and demonstrating the Council's commitment to this important objective.
- 1.3 The creation of Buckinghamshire Council has brought together four separate licensing authorities, each formerly designated to administer the licensing arrangements in respect of private hire and hackney carriage operations. To support this licensing function, each former District adopted distinct policies, procedures, fee structures, conditions and Byelaws.
- 1.4 Legal advice provided prior to vesting day, confirmed that in accordance with the provisions of the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (SI 2008/2867) ("the 2008 Regulations"), while licensing functions are now administered by Buckinghamshire Council, the functions and systems of the former District Councils continue to apply to the respective geographic areas of the former Councils. As a consequence, until such time as the new Council exercises its discretion to amalgamate these areas, the local licensing arrangements will continue to apply in the geographic areas of the former Districts.
- 1.5 Legal opinion further confirmed that Buckinghamshire Council was not required to have new unified policies in place to cover its geographical area immediately for vesting day. However, it is clearly desirable that Buckinghamshire Council moves to align policies and procedures in respect of taxi and private hire licensing matters. It is important that decision making is consistent and drivers, vehicles and operators are held to the same standards across the Council and, as far as possible, that they are subject to the same fee levels to ensure parity and consistency for the industry and passengers.
- 1.6 It has been a number of years now since the respective policies were subject to a full review: Aylesbury, October 2016; South Bucks, November 2016; Chiltern, October 2017; Wycombe, April 2017. Furthermore, the new statutory taxi and private hire vehicle standards (see appendix A) published in July 2020, recommend that Councils publish a policy document, bringing together all their policies and procedures concerning taxi and private hire vehicle licensing. This document should include policies on convictions, details of the "fit and proper" test, licence conditions and vehicle standards and should be reviewed every 5 years. Prior to the publishing of the statutory standards, the adoption of a taxi licensing policy was only considered best practice. The Council now has a legal obligation to have regard to the statutory

standards and should only depart from its recommendations where there is sufficient justification to do so.

- 1.7 Representatives from the four former District Councils commenced preparatory work on a new draft policy prior to vesting day. Current policies were benchmarked to highlight key policy differences and identify areas of best practice. James Button & Co Solicitors, one of the leading legal experts in taxi and private hire licensing matters, were commissioned in March 2020 to assist with preparing a new draft taxi and private hire licensing policy for Buckinghamshire Council. Lead officers from the Licensing Service have built on this advice and are producing a working draft policy document. The draft policy will undergo further refinement with assistance from the Council's policy team.
- 1.8 Pre-engagement consultation with internal stakeholders has taken place including work with the Councils client transport and safeguarding in employment teams as well as officers responsible for the Councils environmental strategy and policy. Pre-engagement consultation with external stakeholders is taking place between 7th-27th September 2020 in the form of an online survey at [Your Voice Bucks](#) which is available on the Council's website and has been publicised to key stakeholders, including the traveling public, school transport users and the taxi trade. Workshops are also being held during September for members of licensing committee to review, consider and discuss areas of policy harmonisation and the potential implications and impacts of decision making in particular policy areas. Pre-engagement work will feed into the final draft policy document that is presented to the Cabinet Member for Regulatory Services and then the Licensing Committee in October 2020 for a decision on whether to commence a full public consultation on the new policy.
- 1.9 Alongside, and in conjunction with the adoption of a new policy, the Council will need to consider a number of key issues; with respect to Hackney Carriages, there are currently separate zones in operation across the former district council areas. Vehicles licensed in one particular zone may only park on ranks and ply for hire in the zone in which they are licensed. Each of these zones is subject to its own schedule of fares and different vehicle standards, Byelaws, conditions and licence fees apply. In addition a limitation policy in the Aylesbury 'Town' zone limits the number of permitted licensed vehicles to 50. In accordance with the relevant legal provisions, the Council may either decide to keep these zones or remove the zones by way of resolution. Zones cannot be partially merged or reintroduced once they have been removed.
- 1.10 With respect to Private Hire Vehicles, there are currently four areas in operation: Chiltern, South Bucks, Wycombe and Aylesbury. Operators licensed in one area are only permitted to dispatch vehicles and drivers licensed in the same corresponding area. Similarly to hackney carriages, each of these areas is subject to its own

standards, conditions and licence fees. While the requirements for licensed drivers are similar across the four areas, there are significant differences to the approaches taken in respect of vehicles and operators.

- 1.11 Any changes proposed within the new policy will impact both on the existing trade, to varying degrees depending on the area in which they currently work, and new entrants to the trade where higher standards will be required of vehicles, drivers and operators. The policy will also need to consider the appropriateness of “grand father” rights in respect of the existing trade. A grandfather right is a provision in which an old rule continues to apply to some existing situations while a new rule applies to all future cases.
- 1.12 In accordance with the Policing and Crime Act 2017, the Department for Transport published new standards for taxi and private hire vehicles in July 2020. These standards aim to introduce consistency in the licensing system and reduce the risk of harm posed to children and vulnerable passengers. The introduction of the new standards follows historic cases across the country of taxi and private hire drivers abusing their position of trust in relation to the exploitation of children and vulnerable adults facilitated, and in some cases perpetrated, by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers.
- 1.13 Councils must have regard to these new standards and it is expected that they will be adopted unless there is compelling local reason not to. The majority of these standards have already been adopted by the former District Councils and are in place within the legacy areas such as; enhanced DBS and barred list checks, mandatory safeguarding training, English language testing and information sharing with the police and other local authorities. However there will be some new challenges presented by the new standards which are not current policy requirements but will be included within the new draft policy. These include:
 - Policy to be reviewed every 5 years and annual performance reviews
 - Retrospective application of the new policy in some areas (e.g. English language testing and criminal convictions policy)
 - 6 monthly DBS checks and subscription of drivers to the DBS updater service (currently, driver DBS checks are performed every 3 years on licence renewal, subscription to the updater service is mandatory in some but not all legacy areas)
 - Annual DBS checks for vehicle owners
 - CCTV in vehicles. The standards advocate local consultation to determine whether CCTV would have a net positive or adverse impact on safety. The Council needs to be mindful that should it mandate CCTV, or dictate conditions as to its installation and use, then in accordance with ICO

guidance, it is likely to be deemed a data controller under the Data Protection Act.

- Annual basic DBS checks for operators (these are currently carried out every 5 years on renewal of the licence, or 3 yearly for driver/operators), basic DBS checks on all staff responsible for bookings.

1.14 In instances where the Council choose not to follow the statutory standards it is expected to state why.

1.15 The introduction of the new standards is timely and they will be incorporated into the new Buckinghamshire Council Taxi Licensing and Private Hire Policy. To ensure transparency and accountability in this area a separate report on the new standards, how they relate to the new policy and their implementation will be provided to the Licensing Committee alongside the policy decision making process.

1.16 It is proposed that moves to adopt a new policy proceed on the following time lines:

- October 2020- Informal Cabinet consider draft policy
- October 2020 - Licensing Committee consider draft policy
- November- December 2020 - stakeholder consultation
- February 2021- Informal Cabinet consider consultation responses and the proposed policy
- February 2021 – Licensing Committee consider consultation responses and the proposed policy
- Date TBC – adoption by Full Council

1.17 In conjunction with the above, the Council will potentially need to consider other matters such as resolutions pertaining to Private Hire and Hackney Carriage licensing areas, the adoption of new Byelaws, new fees and fare structures, and the appointment of taxi ranks. The Cabinet Member, Cabinet and the Licensing Committee will continue to be advised on such matters.

Other options considered

1.18 The introduction of the new statutory standards in July 2020 essentially requires the Council to publish a taxi and private hire vehicle licensing policy unless there is compelling reason not to do so. The Council could keep separate policies for each of the former areas, however maintaining and applying four different policies is burdensome on the trade, Council Members and Officers. Each separate policy would need to be revised to ensure compliance with the new statutory standards

and subject to full review every five years. The adoption of a new, unified policy, for Buckinghamshire Council, presents a timely opportunity to review best practice, adopt the highest standards for Buckinghamshire's taxi and private hire trade and promote efficiency.

Legal and financial implications

- 1.19 The Council has a legal obligation to have regard to the new statutory taxi and private hire vehicle standards and should only depart from its recommendations where there is sufficient justification to do so. These standards include a recommendation that Councils publish a licensing policy document that is reviewed at least every 5 years. Failure to comply with the recommended standards could be detrimental to the Council's defence if faced with legal challenge related to these standards. Furthermore a written policy document helps assist decision making and provides safeguards against legal challenge.
- 1.20 The additional cost of drafting the new policy will be met by funds allocated to the transformation work streams prior to vesting day. There may be future cost implications to the Council from new policy requirements. However any additional costs incurred or savings made will be reflected in future adjustments to fee levels. The Council is legally obliged to ensure licence fee levels are set on a cost recovery basis.

Corporate implications

- 1.21 Protecting the vulnerable – taxi and private hire vehicles play a valuable role in transporting vulnerable members of the community such as children and vulnerable adults, including disabled people. Many children, including those with special educational needs, rely on taxis and private hire vehicles for home to school transport. This policy review presents an opportunity to ensure that the required standards of the Council's client transport services and private hire and taxi licensing services are aligned. The policy also allows the Council to set out its expectations in terms of vehicle requirements, including accessibility requirements.
- Property – there are implications for the Council in respect of testing arrangements for vehicles. The Council is able to determine the frequency, manner and location of vehicle testing. Presently this varies between areas as to whether these tests are performed at Council or external facilities. A review is ongoing and various options are being explored, which includes the potential use of the new Pembroke Road workshop facility for increased vehicle testing.

- HR – N/A
- Climate change – measures to encourage the use of low emission vehicles will be considered in the new policy.
- Sustainability – the provision of public transport reduces the need for car ownership. A policy that promotes higher quality transport options is more likely to be desirable to passengers and further reduce the need for vehicle ownership.
- Equality – an equality impact assessment will be undertaken in conjunction with the policy review.
- Data – the relevant Council’s data protection policies will be referenced in the policy document.
- Value for money – a unified policy reduces financial burdens on the Council with savings in member and officer time: consultations, committee meetings, enforcement and application processing. There are savings in advertising costs of statutory public notices required for changes to fees and hackney carriage fares. The trade benefit with one licensing regime for the whole Council area, rather than up to four under the current arrangements.

Consultation and communication

1.22 A full and comprehensive consultation exercise will take place once the draft policy is ready. Stakeholders will be invited to comment and all views will be referred back to the Licensing Committee and Cabinet Member for consideration before any final policy decisions are made.

Next steps and review

See paragraph 1.14

Background papers

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

Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone [] or email []