



Report to Licensing Committee

Date: 1 July 2020

Reference number: N/A

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

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

Author and/or contact officer: Simon Gallacher, Principal Licensing Officer

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 promotes the highest possible standards to secure public safety, support 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 early 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. Indeed there is no statutory requirement to have a taxi and private hire licensing policy at all, however it is recognised as best practice. Written policies demonstrate the Council's commitment to securing public safety, provide clarity for applicants and licence holders, assist decision making, facilitate enforcement and help safeguard against legal challenge.
- 1.6 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, they are subject to the same fee levels. Furthermore, 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.
- 1.7 Representatives from the four former Districts commenced preparatory work on a new draft policy prior to vesting day. Current policies were bench marked 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.

1.8 James Button & Co were provided with a comprehensive scoping document, setting out areas for inclusion in the draft policy document. They were specifically briefed to draft a policy that:

- Supports the Council's commitment to secure public safety
- Is robust to withstand legal challenge.
- Contains unambiguous policy statements ("bright lines" approach)
- Incorporates the highest standards from the various existing policies, updated where necessary to reflect current best practice
- Includes some aspirational elements that may not feature in the current policies but would be desirable.
- Ensures that Buckinghamshire Council has the best possible policy in place.
- Includes a set of supporting conditions.

They were asked to provide advice on retrospective application of the policy, for example where higher standards are being suggested, the application and appropriateness of grandfather rights, and comment on the inclusion of Byelaws.

1.9 At the time of writing this report, the first draft of the policy is near completion but is not yet available. Officers will provide a further verbal progress report at the meeting.

1.10 Alongside, and in conjunction with the adoption of a new policy, the Council will need to consider a number of key issues.

1.11 With respect to Hackney Carriages, there are currently separate zones in operation across the former District areas. Vehicles licensed in one particular zone may only park on ranks and ply for hire in the zone in which it is 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.

1.12 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.

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

- July 2020 Draft policy received and content reviewed by officers.
- August 2020 draft policy circulated to Licensing Committee Members
- 9 September 2020 – Licensing Committee consider draft policy
- September to December 2020 –stakeholder consultation
- 3 February 2021 – Licensing Committee consider consultation responses.

1.14 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 Licensing Committee will continue to be advised on such matters.

Other options considered

1.15 There are no specific statutory time scales imposed on the Council to align taxi and private hire licensing policies. Furthermore, unlike the Licensing Act 2003 and Gambling Act 2005, there is no legal requirement to publish a statement of licensing policy for taxis and private hire operations. Maintaining and applying four different policies however is burdensome on the trade, Council Members and Officers. The adoption of a new policy, for the new Council area, presents a timely opportunity to review best practice and adopt the highest standards for Buckinghamshire's taxi and private hire trade.

Legal and financial implications

1.16 There is no statutory requirement to have a taxi and private hire licensing policy however a written policy document helps assist decision making and provides safeguards against legal challenge. Further specialist legal advice may be necessary to assist the Council with some of the measures identified in paragraph 1.14.

1.17 The additional cost of drafting the new policy have been 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

1.18

- Protecting the vulnerable – taxi and private hire vehicles play a valuable role in transporting vulnerable members of the community such as children and those with physical disabilities. Many children, including those with special educational needs, rely on taxis and private hire vehicles for 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 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 Council review is ongoing and various options are being explored, which includes the potential use of the new Pembroke Road 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

1.19 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 1.13

Background papers

N/A

