

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Hackney Carriage and Private Hire Licensing Policy

Meeting/Date: Licensing and Protection Committee – 17 October 2018

Executive Portfolio: Executive Councillor for Operations and Regulation - Cllr M Beuttell

Report by: Head of Community – Chris Stopford

Ward(s) affected: All

Executive Summary:

To approve a final taxi licensing policy, taking into account the comments received from the public consultation exercise, any legislative changes and any guidance received during the drafting period. The cost of implementing the policy will be financed from the receipt of licence fees.

The service currently operates within a number of separately published policies and procedures, but has no overarching policy document. The public consultation exercise asked whether the Council should formulate and publish a dedicated taxi policy statement. It also took the opportunity to undertake a survey covering a number of associated matters.

The policy addresses new and recent statutory duties placed upon the Council, it has provided an opportunity to re-visit a number of existing policies and procedures and has enabled the consideration and introduction of a number of new discretionary initiatives to raise standards.

This report provides feedback from a consultation exercise which was authorised by the Committee on 5 July 2017. The responses to the consultation exercise are strongly in favour of the Council establishing an overarching taxi policy. It recommends replacing a number of documents with a new single policy. The issues were discussed at Policy Development Group on 18 September and their views are reflected within the report.

For ease of reference, all major changes to the documents have been highlighted. These matters will be addressed and amended in production of the final published document.

Recommendations:

It is recommended that:

- 1. Members consider the comments received and approve the taxi licensing policy, attached as Appendix A to take effect from 1st January 2019.**

- 2. The conditions of licensing attached as annexes 1 to 7 be adopted and take effect from 1st January 2019.**
- 3. That members determine whether the wording of door stickers for private hire vehicles be “Private Hire Vehicle – Insurance invalid unless pre-booked with operator” or the alternative put forward of ‘No booking – no ride’. This wording would sit alongside the unique licence number to show it was an HDC authorised vehicle ie H123 or P321.**
- 4. Members approve the requirement to have permanent or magnetic or both door signs displaying the plate number issued by HDC.**
- 5. That the introduction of a 5 year maximum age of a vehicle at first date of licensing be introduced.**
- 6. That existing drivers be required to complete the training on Safeguarding, Child exploitation and Disability Equality.**
- 7. The Head of Community, in consultation with the Executive Councillor for Community Resilience, Well-Being and Regulatory Services, be authorised to make minor amendments to the policy and annexes that are considered necessary without the need to consult on the whole document. Or as in policy: The Licensing and Protection Committee may make any amendments to the policy and any annexes. Sections may be updated and amended without the whole policy being consulted upon.**
- 8. That the Head of Community be authorised to investigate and implement the most appropriate and cost effective method of delivering the Safeguarding, Child Exploitation and Disability Equality training and the implementation of the knowledge, English and mathematics testing. It is recommended that these periods for implementation be delegated to the Head of Community for determination in line with the processes put into place.**
- 9. Should it not be possible to implement or deliver any measures proposed within the new policy by 1st January 2019, then authority be given to the Head of Community to implement such measures as soon as possible thereafter.**

1. PURPOSE OF THE REPORT

- 1.1 The Council has a duty to provide a safe and secure taxi service to the public which provides value for money. Between 1 April 2015 and 31 March 2017, the number of drivers and vehicles licensed within the district increased by 31% and 17% respectively. The service currently operates within a number of separately published policies and procedures, but has no overarching policy document. It was agreed by the Licensing and Protection Committee in July 2017 that a dedicated taxi policy be formulated, consulted upon and published. On 20 September 2017 the Licensing and Protection Committee approved a draft policy for public consultation.
- 1.2 The purpose of this report is to invite members to approve the final policy and schedules of conditions (Appendix A) taking into account the public consultation responses and recommendations put forward.

2. WHY IS THIS REPORT NECESSARY/BACKGROUND

- 2.1 The introduction of a policy provides the ability to state and extend our aims and objectives, including additional areas such as protection from harm, environmental sustainability and crime and disorder. It has also provided an opportunity to review, update, introduce or discontinue elements to ensure they are LEAN and customer led.
- 2.2 Some matters for consideration are statutory, others are in line with our corporate plan, or provide positive improvements to standards. Our standards going forward determine our position in the market and include measures to support the local community.
- 2.3 The document sets out the Council's policy and duties relating to the licensing of Hackney Carriage and Private Hire drivers, vehicles and operators. It provides guidance and information on the approach taken by the Council in administering its functions and addresses the legislative framework. Once introduced, the policy may need regular updating to reflect changes, but will provide a customer focused and readily available service for the trade and the public. It will be fully available to view on line.

3. OPTIONS CONSIDERED/ANALYSIS

- 3.1 At the meeting held on 20 September 2017, it was considered necessary to introduce a new dedicated taxi licensing policy and members agreed the scope of the document.
- 3.2 The following legislative elements were included:
 - The operation of 3 year licences for drivers and 5 year licences for operators with effect from 1 November 2018 with the option for 1 year licences, if appropriate
 - To include new statutory provisions relating to the Immigration Act 2016 and right to work in the UK.
 - To include new statutory provisions relating to the Equality Act 2010.
- 3.3 It was agreed that the following be consulted upon as being examples of good practice, providing a safe and secure taxi service to the public and raising standards:

- The introduction of new elements of training for drivers on child sexual exploitation, safeguarding and disability awareness.
- To review the conditions for drivers, vehicles and operators.
- To update the Council's guidelines relating to the relevance and treatment of convictions.
- To introduce a local knowledge test for new drivers.
- To introduce an English/ Maths test
- Imposing an age limit on licensed vehicles.
- Consideration of a more uniform appearance for Hackney Carriage Vehicles.
- Consideration of mandatory door stickers for Private Hire Vehicles.
- A requirement for operators to have a documented complaints procedure.
- Consideration of new requirements for operators, including a sliding scale of fees

3.4 At the meeting on 20 September 2017, members also agreed that:

- The penalty points system in its current format should be discontinued.
- The delegations of authority should be reviewed as a separate exercise.

4. KEY IMPACTS / RISKS

4.1 We have a duty to implement government legislation and are advised to adopt government guidance. If we do not do so, then we are open to legal challenge.

4.2 Policies and procedures provide evidence of our stance on taxi licensing matters. A policy will be transparent, will aid consistency of practice and will be made available to the public.

4.3 The absence of an overarching policy could impact upon the ability for drivers and customers to easily access relevant information.

5. ACTIONS TAKEN AND TIMETABLE FOR IMPLEMENTATION

5.1 Twelve weeks public consultation and engagement with the trade was undertaken between October and December 2017 on a draft policy.

5.2 A revised policy has now been drawn up, taking into account all responses received from the consultation for final approval by the Licensing and Protection Committee.

5.3 It is proposed that implementation of the policy/ proposals will take effect on 1 January 2019, however there may be elements that will take longer to put in place, or require a period of time to achieve. An examples of this would include the grant of a period of one year be permitted for existing drivers to undertake safeguarding/ equality training.

5.4 It states in the policy that amendments to sections of the policy can be undertaken without requiring public consultation on the whole document. This will enable periodic reviews to keep the document relevant and current. It will also enable sections of the document to be updated as appropriate.

5.5 In developing a new policy officers have also responded to the consultation review to keep licensing conditions up to date by revamping the conditions of licensing and convictions policy that will sit under the overarching policy.

- 5.6 In developing a revised set of conditions the Hackney Carriage and Private Hire vehicle conditions have been amalgamated into one set of conditions to reduce duplication.
- 5.7 A new “relevance of convictions policy” has been drafted to reflect the Local Government Association and Institute of Licensing approved conditions which is also to be adopted as best practice by the Department of Transport in its “Taxi Best Practice Guidance for Local Authorities” (to be published soon).

6. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES

- 6.1 This opportunity is being used to review and simplify related areas, ensuring that our processes are LEAN, customer focused and provide value for money. The introduction of safeguarding and child exploitation training is a positive move in support of the Council’s corporate plan.

7. CONSULTATION

- 7.1 The proposed policy was discussed at the Policy Development Group meeting on 18 September 2018.

- 7.2 Policy and development group considered the policy and conditions and made the following recommendations for Licensing Committee to consider:-

- That a Maximum age of 12 years should not be adopted for all licensed vehicles but that further work should be done on the impact of air quality from emissions of licensed vehicles.
- Following Officer recommendation there should be a maximum age of 5 years at 1st registration of vehicles.
- That we should not impose a single colour (eg Hunts DC Blue) on all Hackney Carriage vehicles.
- That permanent or magnetic door signs be available to proprietors.
- Provision of CCTV should not be required by policy but guidance and support should be given to those drivers who wished to install it.

- 7.3 Consultation with the trade and public took place over a twelve week period between 29 September and 22 December 2017 in accordance with Cabinet Office guidelines. Seven individual written responses and one hundred and forty five responses to the on-line survey were received. Forty of the on-line survey responses are considered to be valid and have been considered. A further one hundred and five virtually identical responses originating from one IP address have been discounted as being vexatious. The individual comments have been summarised and are attached as Appendix B, together with an appropriate response and action taken. The results of the on-line survey are attached as Appendix C. Of the 40 relevant responses received to the survey, 75% lived within Huntingdonshire District.

- 7.4 It is for the Licensing Authority to consider the views of consultees and attach an appropriate weight on whether they should be taken into account and to what extent. Some of the matters raised fall outside the scope of the policy and/ or the consultation exercise undertaken. However it is acknowledged that a number of other issues have arisen as a result of the consultation that will be investigated separately as a part of the aim to provide an effective service. E.g. emission limits and air quality considerations, electric cars etc.

7.5 Views were sought on the following specific issues:

Legislative – will be introduced

- Should the Council have a dedicated licensing policy for the Hackney Carriage and Private Hire trade reflecting current legislation and guidance? 85% (34) strongly agreed or agreed, together with 3 individual responses in support.
- Do you agree that the Council's conditions for drivers, operators and vehicles be revised and kept up to date? 85% (34) strongly agreed or agreed. These have been updated and added as Annexes to the policy.
- Do you agree that the council's guidelines relating to the relevance and treatment of convictions for new and existing drivers be kept relevant and up to date? 100% (40) strongly agreed or agreed. The updated guidelines have been added as an annex to the policy.

Good practice – consultation in favour – will be introduced

- Do you agree that all licensed drivers should undertake training on equalities, child sexual exploitation, safeguarding and disability awareness? 77.5% (31) strongly agreed or agreed. Training will be included in the policy.
- Should the Council include within the policy a code of conduct for licensed drivers and operators? 90% (36) and 1 individual responded Yes. A code of conduct section features within the policy. .
- Should the Council introduce a local knowledge test for new drivers? 67% (26) responded Yes. This will be introduced and reflected in the policy.
- Should the Council introduce a basic assessment of English language and arithmetic for new drivers? 90% (36) responded Yes. This will be introduced and reflected in the policy.
- The Health Act 2006 prohibits smoking in vehicles. Should the Council extend this to electronic cigarettes and vaping? 82.5% (33) and one individual responded Yes. This has been reflected in the policy and conditions.
- Following an accident, do you agree that a vehicle should be inspected and/or submitted to the testing station to ensure it is safe to drive before the plate is re-issued? 72.5% (29) responded Yes. This will be reflected in the policy and conditions.
- Should the Council introduce a maximum age policy at first application with HDC for licensed vehicles? 62.5% (25) responded Yes, 30% (13) suggesting a maximum age. (37.5%) (15) responded No, Taking into account the survey responses, individual responses and an average of the age suggestions the policy will include a maximum age on first application of seven years. This has been reflected in the policy and conditions.
- Should the Council introduce a maximum age policy at renewal with HDC for licensed vehicles? i.e. the maximum age a vehicle can hold a licence. 67.5% (23) responded Yes, 30% (12) suggesting a maximum age. 42.5% (17) responded No. Taking into account the above responses, individual responses and an average of the age suggestions the policy will include a maximum age on renewal of twelve years. This has been reflected in the policy and conditions.
- Do you agree that the Council should not licence any Private Hire vehicles that look like Hackney Carriage Vehicles? 72% strongly agreed or agreed. This will be reflected in the policy and conditions.
- Should all Hackney Carriage vehicles have signage stating 'Licensed Hackney Carriage' and bear the Council's logo? 80% (32) responded

Yes. This will be reflected in the policy and conditions. 20% responded No, together with one individual comment of 'no, unless free of charge'

- Should all Private Hire vehicles have signage stating 'Private Hire Vehicle – Insurance invalid unless pre-booked with operator' and bearing the Council logo? 61.54% (24) responded Yes, 38.46% (15) and 1 individual responded No. Alternative wording of 'No booking – no ride' has been proposed for consideration
- Do you agree that operators should have a documented complaints procedure that can be made available to the Council upon request? 87.5% (35) strongly agreed or agreed. This will be reflected in the policy.

Good practice – consultation in favour – will be introduced

- Should Private Hire vehicles be permitted to use magnetic signage instead of fixed signage? 57.5% (23) responded yes, together with 2 individual responses, 42.5% (17) responded No. The Council has taken into account the comments received, and has also considered other factors such as loss, theft misuse and vandalism to vehicles. It is therefore proposed that the Council will be introducing this form of signage on 1st November 2018, but will undertake proportionate enforcement to ensure where magnetic signs are chosen they are used

Good practice – consultation not in favour – will not be introduced

- Should all licensed drivers be required to hold a first aid certificate? 62.5% (25) and 1 individual responded No. This will not feature in the policy.
- Should the Council require CCTV in all licensed vehicles? 65% (26) and 2 individuals responded No. This has been reflected in the policy and conditions.
- Should all Hackney Carriage vehicles be the same colour? 67.5% (27) responded No. 32.5% (13) and 1 individual response responded Yes. A coloured livery will not be recommended by officers to feature in the policy.

No overall consensus - will not be introduced.

- Should the Council change from a single set fee for an operator's licence to a sliding scale of fees based upon the number of vehicles operated? 52.5% (21) responded Yes, 47.5% (19) and 2 individuals responded No. Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 only allows for the recovery of costs associated with the issue and administration of the licence. The number of vehicles is considered to be immaterial and for this reason it is proposed that the Council continues its current practice of a one fee.

Consultation in favour – to be considered as a separate exercise

- Do you consider there is a need for the Council to limit the number of Hackney Carriage vehicle licences granted within the district? 57.5% (23) responded Yes. A demand survey will firstly need to be undertaken and for this reason cannot be incorporated into the policy at present. However the Council has noted the result of the survey.

7.6 Having considered the responses to the consultation exercise, clearly respondents agree that the Council should have an overarching policy document that reflects current legislation and guidance that is relevant and kept up to date. A number of other documents have been included as annexes to the policy including driver, vehicle and operator conditions, hackney carriage

byelaws, private hire plate exemptions and guidance relating to the relevance and treatment of convictions.

8. LEGAL IMPLICATIONS

- 8.1 Legal implications may arise as a result of non-compliance with legislation, leaving us open to challenge and the possibility of costs being awarded against the Council. This overarching policy will state the way in which the Council will undertake its statutory duties. The Council has consulted with a taxi licensing specialist in the drawing up of the final policy.

9. RESOURCE IMPLICATIONS

- 9.1 There will be a staff resource implication for completion of the work to be undertaken and its implementation. It will require the set-up of differing processes and communication with the trade, but once in place should generate efficiencies. The changes proposed will be met from within existing resources.
- 9.2 All fees and charges associated with taxi licensing must be self-financing and on a cost recovery basis only. Any changes determined as a result of this report will impact upon fees and charges. Some costs may be absorbed within licence fees, but others will need to be borne by the applicant. As methods of implementation and procedures are still to be determined, a review of fees and charges mid-term through the financial year is likely.

10. REASONS FOR THE RECOMMENDED DECISIONS

- 10.1 The actions proposed will redefine and determine our position within the market going forward and will provide an easily accessible overarching document setting out our policy on taxi matters.

11. LIST OF APPENDICES INCLUDED

Appendix A – Policy and conditions

- Annex 1 - HC & PH driver conditions
- Annex 2 - HC & PH Vehicle conditions
- Annex 3 - Plate exemption conditions
- Annex 4 - Private Hire operator conditions
- Annex 5 - Stretch Limousine conditions
- Annex 6 - Hackney Carriage byelaws
- Annex 7 - Relevance of convictions

Appendix B – Summary of individual responses received

Appendix C – Results of on-line survey

BACKGROUND PAPERS

LGA/loL Taxi & PHV licensing criminal convictions policy – April 2018

Various existing documents relating to conditions for drivers, vehicles and operators, byelaws, plate exemptions and guidelines relating to the relevance and treatment of convictions.

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