



AGENDA

EXTRAORDINARY GENERAL LICENSING COMMITTEE MEETING

Date: Thursday, 11 March 2021

Time: 6.30 pm

Venue: Virtual Meeting Via Skype*

Membership:

Councillors Cameron Beart, Derek Carnell (Chairman), Roger Clark, Richard Darby, Simon Fowle, Lee McCall, Paul Stephen, Eddie Thomas and Tony Winckless (Vice-Chairman) + one vacancy.

Quorum = 3

Pages

Information for the Public

*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website after 4pm on Wednesday 10 March 2021.

Privacy Statement

Swale Borough Council (SBC) is committed to protecting the privacy and security of your personal information. As data controller we ensure that processing is carried out in accordance with the Data Protection Act 2018 and the General Data Protection Regulations. In calling to join the meeting your telephone number may be viewed solely by those Members and Officers in attendance at the Skype meeting and will not be shared further. No other identifying information will be made available through your joining to the meeting. In joining the meeting you are providing the Council with your consent to process your telephone number for the duration of the meeting. Your telephone number will not be retained after the meeting is finished.

If you have any concerns or questions about how we look after your personal information or your rights as an individual under the Regulations, please contact the Data Protection Officer by email at dataprotectionofficer@swale.gov.uk or by calling 01795 417179.

1. Apologies for Absence and Confirmation of Substitutes
2. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or

other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the meeting while that item is considered.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

3. Public Session

The Council operates a scheme of public speaking at meetings of the General Licensing Committee. Requests to speak at the meeting must be registered with Democratic Services by 4.30pm on Friday 5 March 2021 and must be related to an item on the agenda. Each speaker has a maximum of three minutes to speak.

Part B report for the General Licensing Committee to decide

4. DfT National Taxi Standards

5 - 18

Issued on Monday, 1 March 2021

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of this Committee please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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General Licensing Committee Meeting	
Meeting Date	11 th March 2021
Report Title	DfT Statutory Taxi and Private Hire Vehicle Standards
Cabinet Member	Cllr Richard Palmer, Cabinet Member for Community
SMT Lead	Nick Vickers, Chief Financial Officer
Head of Service	Della Fackrell, Resilience & Licensing Manager
Lead Officer	Christina Hills, Licensing Officer
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. Members to note that there were no responses to the public consultation on the draft revisions to be incorporated into the councils current Hackney Carriage and Private Hire Licensing Policy as required by the DfT Statutory Taxi and Private Hire Vehicle Standards 2. Members to approve the revisions to the policy to become effective as of 15th March 2021

1 Purpose of Report and Executive Summary

- 1.1 To feedback to Members regarding the public consultation on the draft revisions to the current Hackney Carriage and Private Hire Licensing Policy to incorporate requirements made necessary by the DfT Statutory Taxi and Private Hire Vehicle Standards.
- 1.2 Members are asked to approve the revisions to become effective as of 15th March 2021.

2 Background

- 2.1 The Secretary of State for Transport issued new Statutory Taxi and Private Hire Vehicle Standards to licensing authorities in July 2020. The Statutory Standards set out a range of robust measures to protect taxi and private hire passengers with a particular aim of safeguarding children and vulnerable adults as well as the travelling public in general.
- 2.2 The DfT stated that it expected all licensing authorities to have considered the measures set out in the Statutory Standards by 31st January 2021 and to implement them as soon as possible unless there is a compelling local reason not to do so.

- 2.3 Licensing authorities have a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards. It has been declared that in the interests of transparency, all licensing authorities should publish their consideration of the measures contained in the Standards and their policies. This will enable government bodies to engage with those authorities that do not adopt the Standards and seek from them a rationale for failing to act to protect passengers.
- 2.4 The Statutory Standards and the council's current position regarding the points raised in them, that were either already part of the standard working practices of the licensing team or that would need to be addressed by implementing changes to the current Swale Hackney Carriage and Private Hire Licensing Policy were presented to a meeting of the General Licensing Committee on 21st January 2021.

3 Proposals

- 3.1 The proposed changes to the current Swale Hackney Carriage and Private Hire Licensing Policy are attached as **Appendix I**.

4 Alternative Options

- 4.1 An alternative option would be to continue to rely on the current Hackney Carriage and Private Hire Licensing Policy; however this does not incorporate the Statutory Taxi and Private Hire Vehicle Standards which the DfT expect all local authorities to have regard of.

5 Consultation Undertaken or Proposed

- 5.1 A consultation of 4 weeks was undertaken which started on 25th January 2021 and ended on 19th February 2021.
- 5.2 Consultees and consultation mechanisms were as previously outlined to the Committee.
- 5.3 No responses to the consultation were received. This may be that it was recognised that the DfT requirements contained within the Statutory Standards build upon the good practices already employed by Swale through the current taxi policy and give greater consumer confidence regarding the safeguarding of children and vulnerable adults.

6 Implications

Issue	Implications
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Corporate Plan	The service is an important regulatory function undertaken to ensure safety of the private hire and hackney carriage vehicles used in the Borough and supports the achievement of corporate priorities, including “A council to be proud of”.
Financial, Resource and Property	The cost of consultation and publishing an updated policy will be met from within existing budgets. The Hackney Carriage and Private Hire Licensing Policy is not envisaged to place any new financial pressures on the Council although there are implications for extra work within the licensing team.
Legal and Statutory	There is no legal requirement for a policy, however it is best practice. This is different to other licensing regimes where a policy is a legal requirement. Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions. Under the Human Rights Act 1998 Members must consider the hackney carriage and private hire drivers’ ‘enjoyment of possession’ under Article 1 of the First Protocol – Protection of Property and in determining a policy regarding the licensing of these individuals must balance this right with the need to protect the public. The authority was able to report to the Department of Transport by the deadline of 31 January 2021 on its actions in considering and implementing the statutory guidance as required.
Crime and Disorder	There are obvious links to community safety in ensuring an adequate supply of properly licensed taxis as a safe mode of transport for the public, particularly when other public transport is unavailable and ensuring the safety of drivers and the trade.
Environmental Sustainability	No implications have been identified
Health and Wellbeing	No implications have been identified
Risk Management and Health and Safety	Whilst each individual application will be judged on its own merits, a documented policy ensures a transparent and consistent approach to licensing that reduces the opportunity for challenge through the Courts. Challengers to a particular decision are more likely to fail if the Council can demonstrate that it has adhered to its published policy and there was no reason to depart from it. Any departure from the policy will be based on material evidence and will be documented giving clear and compelling reasons for such departure.

Equality and Diversity	The hackney carriage and private hire licensing policy affects all persons equally
Privacy and Data Protection	No implications have been identified

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Proposed changes to the current Swale BC Hackney Carriage and Private Hire Licensing Policy 2018 -2021

8 Background Papers

None

Table of Amendments and Insertions to the Swale BC Hackney Carriage and Private Hire Licensing Policy 2018 - 2021 to take into account the DfT Statutory Taxi and Private Hire Vehicle Standards

Policy Section No and Title	Current wording within policy	Amended or inserted wording to be used within policy
<p>1. Introduction</p>	<p>1.3 Background to Policy</p> <p>1.3.1 The Department of Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales.</p> <p>1.3.2 In 2006 the DfT produced a Best Practice Guidance to assist local authorities with the regulation of the hackney carriage and private hire trades. It was directed at local authorities “to decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. There was recognition, within the document, that is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations.</p> <p>1.3.3 In 2010 the DfT’s Guidance was updated, and this policy revision takes the 2010 version into account.</p>	<p>Insert</p> <p>1.3.4 In July 2020, the DfT issued Statutory Taxi and Private Hire Vehicle Standards to which all Licensing Authorities must have regard in carrying out their licensing function. Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers; primarily through ensuring the fitness and propriety of applicants and licence holders. The national standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the Best Practice Guidance, and consequently replace relevant sections; where there is a conflict between the national standards and the Best Practice Guidance, the national standards take precedence.</p>
<p>3.6 Disclosure and Barring Service Criminal Records Checks</p>	<p>3.6.2 It is the council’s view that the public expects all reasonable precautions to be taken when determining whether to grant a licence to</p>	<p>Amendment:</p> <p>3.6.2 It is the council’s view that the public expects all reasonable precautions to</p>

	<p>drive a hackney carriage or private hire vehicles and, as drivers are exempt from the Rehabilitation of Offenders Act 1974; an Enhanced Disclosure should continue to be the requirement for new drivers and every three years thereafter. The council may request another disclosure at any time if a further check is considered necessary.</p> <p>3.6.5 Licences will not be issued until such times as the council has sight of a satisfactory returned DBS check. Applicants are therefore encouraged to sign up to the DBS Update Service when applying for their enhanced DBS. Swale Council will not issue temporary badges as a result of delayed checks. It will be the driver's responsibility to make sure they have joined the DBS Update Service to be able to renew their licence on time.</p>	<p>be taken when determining whether to grant a licence to drive hackney carriage or private hire vehicles and, as drivers are exempt from the Rehabilitation of Offenders Act 1974. The DfT national standards recommend that an enhanced DBS check should routinely be carried out via the DBS Update Service every six months.</p> <p>Insertions and numbers within this section to be amended as necessary</p> <p>3.6.3 All new applicants are to provide a completed Enhanced DBS Disclosure Application when they have successfully passed the Street Knowledge Test and register for the DBS Update Service upon receipt of their Certificate, which will be sent to them by the DBS and give the council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered appropriate.</p> <p>3.6.4 All existing drivers who are not already registered with the DBS Update Service to provide a current (less than 3 months old at the date of application) Enhanced DBS Disclosure Certificate, register for the DBS Update Service and give the council ongoing permission and the information required to check the status of their certificate every six months or otherwise considered necessary by no later than 1st September 2021 unless their Swale taxi</p>
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		<p>licence and DBS are due during 2021 in which case it can be done at the time of renewal. Any driver who fails to do so will be subject to suspension or other enforcement intervention as appropriate.</p> <p>3.6.5 Once a driver has registered for the Update Service, they must remain registered, and give the council permission to check the status of their certificate as considered necessary, for the duration of their time as a licensed driver with the council.</p> <p>3.6.6 Anyone who fails to register for the Update Service or maintain continuous registration as required will be subject to enforcement action, including suspension until such times as the situation has been rectified to the council's satisfaction i.e. until they have applied for a further Enhanced DBS check through the council at their own expense in order that they can apply/reapply to join the Update Service within the required timescales as set out by the DBS.</p> <p>3.6.7 The council will check on the status of a drivers' DBS certificate via the Update Service as part of the renewal application process, and at any other time considered appropriate during the validity of that person's licence.</p>
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<p>3.7 Relevance of Offences, Convictions, Prosecutions and Cautions</p>	<p>Not included within current policy except under Appendix I – Penalty Points System:</p> <p>Maximum Penalty Points 10 -12:</p> <p>Failure of a licence holder to disclose offence, conviction, prosecution or cautions within seven</p>	<p>Insertion in policy</p> <p>3.7.7. Licence holders are required by this Authority to notify the Licensing Team within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty</p>

	<p>days</p>	<p>or violence and any motoring offence. An arrest for any of the offences within this scope (with the exception of one-off minor traffic offences) will result in a review by this Authority as to whether the licence holder is fit to continue to hold a licence. This will not however be seen as a direction that a licence should be withdrawn; it is for the Licensing Authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.</p> <p>3.7.8 A failure by a licence holder to disclose a matter referred to in 3.7.7 that the council is subsequently advised of may be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.</p> <p>Insertion in Appendix I – Penalty Points System</p> <p>Maximum Penalty Points 10 – 12</p> <p>Failure to notify the Licensing Team within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.</p>
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<p>4.1 Private Hire Operators</p>	<p>4.1.8 Applications will only be acceptable if they include the following:</p> <ul style="list-style-type: none"> • Application form completed in its entirety and signed by the applicant along with all the information prescribed. • Application for a Disclosure and Barring Service Basic Check, which can be obtained from DBS or Disclosure Scotland, completed by the applicant with accompanying identification or a current valid disclosure certificate completed within 1 month and obtained via an approved body which will allow an update service check to be performed. Applicants that hold a current Drivers Licence with the Council will be exempt from this requirement. 	<p>Insertions and numbers within this section to be amended as necessary</p> <p>4.1.8 Applications will only be acceptable if they include an application form completed in its entirety and signed by the applicant along with all the information prescribed.</p> <p>4.1.9 Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. The national standards recommend however that licensing authorities should request a basic disclosure from the DBS and that subsequent checks are undertaken annually. Consequently, the following requirements apply:</p> <p>4.1.10 All new applicants must provide a completed Basic DBS Check Certificate at the point of their initial application, register with the DBS Update Service upon receipt of their certificate, which will be sent to them by the DBS, and give the council ongoing permission and the information required to check the status of their certificate every year or otherwise as considered appropriate.</p> <p>4.1.11 All existing operators who have not already registered with the DBS Update Service must provide a current (less than 3 months old at the date of application) Basic DBS Check certificate, register for the DBS Update Service and give the</p>
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		<p>council ongoing permission and the information required to check the status of their certificate every year or otherwise as considered necessary, by no later than 1 July 2021. Any operator who fails to do so will be subject to suspension or other enforcement intervention as appropriate.</p> <p>4.1.12 Where an applicant or licence holder has spent an extended period (three or more continuous months) outside the UK, A Certificate of Good Conduct will also be required from the relevant embassy.</p> <p>4.1.13 Where the applicant is a company or partnership, these requirements shall apply to all directors, partners, and secretaries.</p> <p>4.1.14 Once an operator has registered for the Update Service, they must remain registered, and give the council permission to check the status of their certificate as considered necessary, for the duration of their time as a licensed Operator with the council.</p> <p>4.1.15 The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections on its website) the way in which applicants can/must apply for their DBS certificates (e.g. via a 3rd party). Applicants will continue to be responsible for all costs associated with this.</p>
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<p>Private Hire Operators Despatch Staff</p>	<p>To be included in Appendix K Private Hire Operators Conditions</p>	<p>Insertion</p> <p>10.1 The licence holder(s) must keep an up-to-date record of all members of staff included in taking bookings and dispatching vehicles.</p> <p>10.2 All staff listed on the register referred to in 10.1 must provide the licence holder(s) with a Basic DBS check certificate that is less than 3 months old prior to taking bookings and dispatching vehicles.</p> <p>10.3 The licence holder(s) must be able to provide evidence to the satisfaction of the council, upon request, that they have had sight of the Basic DBS check certificates referred to in 10.2 (although DBS certificates must not be retained) and record this, along with the date seen, in the register referred to in 10.1.</p> <p>10.4 Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested.</p> <p>10.5 The licence holder(s) must have and apply a policy on employing ex-offenders in roles that would be on the register above. As with the threshold to obtaining a private hire vehicle operator's licence, those with a conviction for offences provided in Appendix E of this Policy,</p>

		<p>other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car. The policy on employing ex-offenders should reflect this and be properly applied by the licence holder (s)</p>
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