

<b>666General Licensing Committee Meeting</b>	
<b>Meeting Date</b>	15 <sup>th</sup> February 2022
<b>Report Title</b>	Hackney Carriage and Private Hire Licensing Policy review
<b>Cabinet Member</b>	Cllr Richard Palmer, Cabinet Member for Communities
<b>SMT Lead</b>	Charlotte Hudson, Head of Housing and Community Services
<b>Head of Service</b>	
<b>Lead Officer</b>	Christina Hills, Licensing Officer
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Members to consider a draft revised Hackney Carriage and Private Hire Licensing Policy for consultation and advise on relevant amendments</li> <li>2. Members to note the policy consultation process and provide any comments in respect of the same</li> <li>3. Members to confirm if lower licence fees should be offered for cleaner vehicles through a variable licence fee table</li> </ol>

## **1 Purpose of Report and Executive Summary**

- 1.1 To present Members with a draft of the revised Hackney Carriage and Private Hire Licensing Policy and to advise on the proposed consultation methodology to be used.

## **2 Background**

- 2.1 The overarching aim of the taxi and private hire licensing regime is to protect the public by ensuring that all drivers, vehicles and operators are licensed and regulated by authorities in accordance with statutory provisions, primarily set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and, where they exist, local policy considerations.
- 2.2 The aim of the licensing function is to provide a safe environment for those using licensed vehicles and also for ensuring that drivers are knowledgeable and understand their responsibilities to the travelling public e.g. particularly around safeguarding for vulnerable children and adults. Hackney carriages (taxis) and private hire vehicles, their drivers and their operators also have an important role to play in an integrated transport system. They are able to provide services in

situations where public transport is either not available, outside “normal hours” such as the evening or at weekends, or for those with mobility difficulties

- 3.3 Although it is not a statutory requirement, the council has published a Hackney Carriage and Private Hire Licensing Policy (approximately) every three years since 2014; taking into account the Best Practice Guidance issued by the Department of Transport, the Regulator’s Code, and any other relevant matters.
- 2.4 The current edition of the Swale BC Hackney Carriage and Private Hire Licensing Policy 2018 – 2021 is available to view at <https://swale.gov.uk/news-and-your-council/strategies-and-policies/taxi-policy>.
- 2.5 Policy requirements that are unduly stringent could restrict the availability of taxi and private hire services, and consequently be detrimental to public safety. It is therefore important to try and ensure that policy requirements are justified by the risk they aim to address and balanced against potential negative outcomes.
- 2.6 A successful balance will help the taxi and private hire trade develop successfully whilst providing safety and assurance to the public
- 2.7 The existence of a policy has proved to have been an effective tool for achieving this balance and for establishing and maintaining standards, protecting public safety, and ensuring consistency and transparency.

### **3 Proposals**

- 3.1 In July 2020, the DfT issued Statutory Taxi and Private Hire Standards to which all licensing authorities must have regard in carrying out their licensing function.
- 3.2 Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers, primarily through the fitness and propriety of applicants and licence holders.
- 3.3 This 2022 revision therefore seeks to incorporate all of the standards set out within the Statutory Taxi and Private Hire Vehicle Standards where they are not already in place.
- 3.4 Also, in support of the council’s carbon neutral commitment, it is proposed to strengthen our vehicle emission limits by only licensing vehicles which meet or exceed Euro 6 standards. The vast majority of vehicles (other than Wheelchair Accessible Vehicles and limousines) are already likely to meet Euro 6 standards however, to ensure this is achieved it is proposed that all new vehicles when first licensed will need to be a maximum of 6 years old rather than the current maximum age of less than 8 years old.

- 3.5 This provision would not apply to Wheelchair Accessible Vehicles or limousines which can continue to be first licensed when the vehicle is less than 12 years old.
- 3.6 To further strengthen the declaration that Swale will become carbon neutral by 2030 the following will also be required:
- 3.6.1 From 1 April 2023, all vehicle licence applications for newly licensed vehicles (i.e. all applications other than those to 'renew' an existing vehicle licence for the same vehicle by the same holder) must be for low emission vehicles (LEV) - either all electric, electric/fuel hybrid or Euro 6 diesel and Euro 6 petrol compliant. Older vehicles have over 3 times and some as much as 6 times the permitted emissions limit of Euro 6 diesel and petrol.
  - 3.6.2 From 1 April 2023, all Euro 6 diesel and Euro 6 petrol vehicles will be licensed for a maximum period not to exceed 1 April 2030. Any Euro 6 diesel or Euro 6 petrol driven vehicles licensed before 1 April 2023 will also cease to be licensed on 1 April 2030.
  - 3.6.3 From 1 April 2025, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) ie: less than 75 grams of CO<sub>2</sub>. ULEV includes battery electric vehicle (BEV), extended range electric vehicle (E-REV) plug in hybrid electric vehicle (PHEV) or fuel cell electric vehicle (FCEV-hydrogen vehicle).
- 3.7 It is acknowledged that there may be concerns from within the taxi trade about the cost implications associated with these proposals, but licensing officers feel this is outweighed by the council's commitment to climate and ecological emergency and by giving the taxi trade advance warning this will help them all to forward plan accordingly.
- 3.8 Members may wish to consider introducing a variable licence fee scale so that cleaner vehicles pay less in licence fees as an incentive to the trade.
- 3.9 For its part the council may wish to commit to the taxi trade that it will seek improvements to the electric vehicle charging infrastructure for taxis.
- 3.10 Both of these would of course have a resource implication in that there could be potentially less income and a cost to the council for installation of charging points.
- 3.9 Apart from the issues raised above an in-depth review of the existing policy has been carried out by the Resilience and Licensing Manager and licensing officers to highlight areas of the policy that are considered in need of revision or removal if they are not necessary, having particular regard to the matters outlined above.

- 3.10 All proposed changes have been incorporated into the draft policy attached as **APPENDIX I** and a summary of these is set out in a table as **APPENDIX II** for ease of reference.
- 3.11 It is proposed that the revised policy, if approved by Members later in 2022 after consultation and after a further report to the General Licensing Committee, will remain valid for a period of five years, in accordance with the statutory standards, unless it becomes necessary to make further revisions beforehand following changes to legislation or local circumstances. This differs to the policies that have thus far been approved for a period of three years.

## **4 Alternative Options**

- 4.1 If the modified proposals are not considered suitable the Members could revert to the original taxi policy.

## **5 Consultation Undertaken or Proposed**

- 5.1 A consultation period of 12 weeks is proposed to run between 28<sup>th</sup> February 2022 and 20<sup>th</sup> May 2022. Methods of consultation will be via the council's website, social media pages, newspaper advertisements, by direct email and mail shots and in the case of Swale licensed drivers and operators by Survey Monkey.
- 5.2 It is proposed to consult with the following:
- a) Representatives of the hackney carriage and private hire trade
  - b) Kent Police
  - c) Kent County Council Traffic & Road Safety
  - d) Kent County Council Highways department
  - e) Kent County Council (Schools contracts)
  - f) Driver and Vehicle Standards Agency (DVSA)
  - g) Disabled Persons Transport Advisory Committee
  - h) Local businesses and their representatives
  - i) Local Residents and their representatives
  - j) Swale Town Centre management
  - k) Ward Councillors, Town and Parish Councils
  - l) Community Safety Unit
  - m) The National Private Hire Association
  - n) The National Taxi Association
  - o) Public Health Kent
  - p) Chamber of Commerce
  - q) Citizens Advice
  - r) Age UK
  - s) Swale Council Environmental Health Department
  - t) Swale Council Engineers

- 5.3 All incoming responses will be collated and entered onto a grid for consideration.
- 5.4 The Resilience and Licensing Manager in consultation with licensing officers and officers from the Environmental Health department will conduct an evaluation of each response and give a recommendation as to whether or not to amend the policy statement and, if so, to what extent.
- 5.5 The grid and recommendations will be put before a future meeting of the General Licensing Committee for further consideration.
- 5.6 Any proposed variations recommended by Members of the General Licensing Committee will then be incorporated into the revised Hackney Carriage and Private Hire Licensing Policy to create the final draft.
- 5.7 Following consideration of the outcome of the consultation process and subsequent recommendations, it is proposed that the amended Policy will then be approved for adoption by the Chair of Policy Development and Review Committee and the Chair of General Licensing Committee without further need to report back to the General Licensing Committee as a whole if Members agree to such a proposal.

## 6 Implications

Issue	Implications
Corporate Plan	<p>The service is an important regulatory function undertaken to ensure the safety of the travelling public of Swale as well as its licensed drivers.</p> <p>There are indirect links to:</p> <p>Priority 3: Tackling deprivation and creating equal opportunities for everyone</p> <p>3.4 Ensure that the council plays a proactive role in reducing crime and antisocial behaviour.....</p>
Financial, Resource and Property	<p>The cost of consultation and publishing an updated policy will be met from within existing budgets. The Hackney Carriage and Private Hire Policy is not envisaged to place any new financial pressures on the Council.</p>
Legal, Statutory and Procurement	<p>There is no legal requirement for a policy, however it is best practice.</p> <p>This is different from the Licensing Act 2003 and the Gambling Act 2005 where a written policy is a legal requirement.</p> <p>Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions.</p>

	<p>Under the Human Rights Act 1998 Members must consider the hackney carriage and private hire drivers' right to "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 need to protect the public.</p>
Crime and Disorder	<p>The licensing role of the Council is important in improving the safety, security and welfare of the Borough's residents, visitors and business community by 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.</p> <p>A published policy setting out how the council will achieve these aims is seen as an important regulatory tool.</p>
Environment and Climate/Ecological Emergency	<p>The draft policy has considered environmental sustainability with regards to emissions from vehicles and the council's commitment to be carbon neutral by 2030.</p>
Health and Wellbeing	<p>The health of the residents of the borough could be improved by addressing vehicle emissions. Also, by ensuring public safety.</p>
Safeguarding of Children, Young People and Vulnerable Adults	<p>Licensing regimes are largely designed to protect public safety. The DfT Statutory Standards go even further to protect public safety, especially children, young people and vulnerable adults and these have been incorporated into this policy revision.</p> <p>Air quality is also an important aspect of protecting children and vulnerable adults and therefore imperative that the licensing of vehicles contributes to improving the air quality in the borough.</p>
Risk Management and Health and Safety	<p>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. Challenges to a particular decision are more likely to fail if the Council can demonstrate that it has adhered its published policy and there was no reason to depart from it. Any departure will be based on material evidence and will be documented giving clear and compelling reasons for doing so.,</p>
Equality and Diversity	<p>This policy includes provisions for licence holders to meet requirements contained in the Equality Act 2010</p>
Privacy and Data Protection	<p>All applications processes will be in line with privacy and data protection regulations</p>

## 7 Appendices

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

- Appendix I: Draft Swale BC Hackney Carriage and Private Hire Licensing Policy 2022 – 2027
- Appendix II – Summary of amendments to the current Swale BC Hackney Carriage and Private Hire Licensing Policy

## **8 Background Papers**

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976

DfT Statutory Taxi and Private Hire Standards July 2020