

General Licensing Committee Meeting	
Meeting Date	19 th April 2018
Report Title	Statement of Hackney Carriage and Private Hire policy
Cabinet Member	Cllr Alan Horton, Cabinet Member for Safer Families and Communities
SMT Lead	Mark Radford
Head of Service	Mark Radford
Lead Officer	Della Fackrell, Resilience & Licensing Manager
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. Members to consider each of the recommendations made in the evaluation grid attached as Appendix III to this report, and request officers to update the draft policy document at Appendix I accordingly prior to final approval. 2. That following the policy being updated, in accordance with recommendation 1, final approval is delegated to the Cabinet Member for Safer Families and Communities and the Chair of General Licensing Committee without further need to report back to this Committee with a commencement date of 1st May 2018. 3. That Members delegate any future amendments to Appendices of the Statement of Hackney Carriage and Private Hire policy which are of a minor nature to the Cabinet Member for Safer Families and the Chair of Licensing Committee after consultation with the Resilience and Licensing Manager

1 Purpose of Report and Executive Summary

- 1.1 This report is to present Members with the consultation responses received in respect of the draft 'Statement of Hackney Carriage and Private Hire policy'.
- 1.2 The report includes an evaluation of each response and gives an officer recommendation as to whether or not amend to the draft policy statement and, if so, in what way and to what extent. Member input is sought in finalising the policy statement for publication and implementation.

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 local 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 requirements.
- 2.2 The aim of the licensing function is to provide a safe environment for those using the 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.
- 2.3 Although it is not a statutory requirement the council has previously published a Hackney Carriage and Private Hire Licensing policy in 2014 and 2016 although the current policy does not cover many of the elements that licensing officers, drivers and operators need to ensure there is no ambiguity.
- 2.4 The draft policy put before Members at this Committee has also taken into account Best Practice Guidance issued by the Department for Transport, the Regulator’s Code and the policies of other local authorities.
- 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

3 Proposals

- 3.1 A draft proposed statement of the Hackney Carriage and Private Hire Policy is attached as **Appendix I**

The main points for the proposed changes to the draft Taxi Policy are as follows:

- 3.2 **Vehicles** – page 8 of the draft policy
 - 3.2.1 6 monthly Test

In the current policy, all vehicles over 5 years old are required to pass two tests per year, 6 months apart.

The proprietor is required to obtain a Vehicle Compliance Test from an approved garage and Licensing Officers also carry out a similar inspection

This is considered to be duplication and not the most effective use of officer time and as such Members are asked to consider the removal of the 6 monthly test.

However a 6 monthly garage test will still be required to be done for all vehicles over 5 years old.

3.2.2 Electric / Hybrid Type

Taking into account environmental considerations and advancing technological developments of vehicles the Council will consider applications to licence vehicles that are of an electric or hybrid type.

3.2.3 Grant and Renewal of Licences – page 16 of the draft policy

In line with the DfT Best Practice Guidance three year badges will now be issued. A one year badge will only be issued if (1) the medical practitioner is of the opinion that the driver should only be issued with a one year badge or (2) the driver is 70 years or over.

3.3 **Drivers** – page 17 of the draft policy

3.3.1 Probationary Badges

The Council sometimes received requests from Taxi Operators to allow easier entry into the taxi trade to ensure that they can fully service the travelling public. As a result probationary badges were initially proposed. This would mean that a driver would have been allowed to enter the taxi trade as a private hire driver for a period of 6 months before then being required to sit a Street Knowledge Test. After careful consideration it was decided that this posed a safety risk to both the travelling public and to the drivers themselves.

However in order to assist taxi operators and proposed drivers it is now intended that whilst all applicants will need to sit and pass a Street Knowledge Test there will be two pass marks. A lower pass mark will allow entry into the trade as a Private Hire driver only whilst a higher pass mark will permit a driver to be licensed with a dual Hackney Carriage/Private Hire badge.

3.3.2 Age and Experience – Driving Proficiency & qualifications

As part of our proper vetting processes the licensing authority has to be able to determine that the driver has a driving ability to a professional standard such that they are deemed safe to transport the travelling public of the borough. In the past driving test specifically tailored for the taxi trade were undertaken by the DVSA.

This has now ceased but it is proposed to require applicants to undertake a driving test that is available through various private providers. The cost of this test would be borne by the applicant

3.3.3 Driving Experience

Under the old policy, there was the requirement that “any person applying to licence a Hackney Carriage/Private Hire vehicle, must have at least twelve months experience of the Hackney Carriage business, before being permitted to licence their own vehicle”

We are asking members to consider the removal of this condition. This would encourage the drivers to set up their own business and become independent.

3.3.4 DVLA

Drivers shall be asked to complete a form which will authorise the Council to apply to the DVLA for a driver licence history.

3.3.5 Safeguarding

Everyone has become aware of the well-publicised issues relating to Child Exploitation and Human Trafficking that have occurred throughout the country. The Licensing Authority has a duty to assist the Taxi and Private Hire trade and the public in tackling this issue, and to protect those who are vulnerable and/or being exploited. We need the help of taxi and private hire drivers and operators to identify those who commit these crimes, and to protect those who most need our help.

It is for this reason that all new applicants for a driver licence will be required to undertake CSE training before their licence is granted.

3.3.3 DBS (to include)

A badge will not be issued to the driver until the Council has sight of the driver's returned DBS check and we are satisfied that the driver is still fit and proper to carry the travelling public of Swale.

3.3.4 Code of Conduct – page 23 of the draft policy

This used to be a separate document but has now been incorporated into the main taxi policy as Appendix J

3.3.5 Badge Lapse

If a driver's badge has lapsed in the last 2 years and the driver wishes to re-licence, Swale council will be happy to relicence the driver without the need to re-do the Street Knowledge Test.

3.4 Disciplinary & Enforcement measures – page 28 of the draft policy

In reviewing the existing penalty points it is considered that some are disproportionate and require review to make the penalty point system more extensive to assist drivers understanding and enforcement of any breaches.

The proposal would be to allow the Authorised officer to decide the appropriate level of penalty points or enforcement action that would be applied in each individual case.

Any offence or breach of policy may mean the driver/proprietor will receive between a minimum of 3 penalty points and up to a maximum of 12 penalty points.

Members are asked to consider the proposed new penalty point system
The proposed new penalty point system is at **Appendix II**

3.6 Relevance of Convictions and Cautions – page 52 of the draft policy (Appendix E)

A more extensive list of offences has been added to the Policy. This list would cover a wider range of offences as compared to the existing one on the current Policy. This has been enhanced for the safety of the public.

3.7 Private Hire Operators Licence conditions – page 77 of the draft policy (Appendix K)

A more extensive list of conditions has been introduced in the draft Policy to enable more appropriate checks to be carried out with the Private Hire Operators. This has been enhanced for the safety of the public.

3.8 Future Amendments to the Policy (To include)

Individual appendices of the policy could from time to time be amended without the need for the full consultation process or approval from Licensing Committee. This would be done by the Cabinet Member for Safer Families and the Chair of Licensing Committee after consultation with the Resilience and Licensing Manager.

3.9 Street Knowledge Test – Page 63 of the draft report (Appendix G)

The Street Knowledge tests will be held on a four weekly basis. Candidates can only be accepted on the test if they have submitted a completed application and

full payment up to 6 working days in advance of the test. Any candidates after this date will be allocated to the next month's test.

The Council's decision of the outcome of the test is final (and that any appeal can only be made in exceptional circumstances where the result will be considered by the Licensing Manager).

4.0 Fire Extinguisher / First Aid Equipment – Page 38 of the draft report

Licensed Vehicles are being proposed to carry the above.

We have included a word of warning for the First Aid Equipment

"Beware! – a driver should not render aid to any other person unless he holds a current First Aid Certificate – Health and Safety Rules)."

4 Alternative Options

- 4.1 If the modified proposals are not considered suitable then members could revert to the original Taxi policy.

5 Consultation Undertaken or Proposed

- 5.1 A consultation period of 10 weeks ran between 18th January and 20th March 2018. Methods of consultation included advertising on the council's website, by way of direct emails, and where this was not possible, postal mailshots as well as advertising in the local newspaper.
- 5.2 All responses received have been entered onto a grid for consideration.
- 5.3 Licensing officers, in consultation with the Resilience and Licensing Manager have conducted an evaluation of each response and have given recommendations as to whether or not to amend the policy statement, and if so, in what way and to what extent.
- 5.4 The grid and recommendations is attached as **Appendix III**.

6 Implications

Issue	Implications
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,	The cost of consultation and publishing an updated policy will be

Resource and Property	<p>met from within existing budgets.</p> <p>The Statement of Hackney Carriage and Private Hire policy will not place any new financial resource implications on the Council.</p>
Legal and Statutory	<p>There is no legal requirement for a policy, however it is best practice. This is different from the Licensing Act 2003 and the Licensing 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 licensing of these individuals must balance this right with the need to protect the public</p>
Crime and Disorder	<p>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</p>
Environmental Sustainability	<p>The policy has considered environmental sustainability with regards to emission’s from vehicles</p>
Health and Wellbeing	<p>None identified at this stage</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 policy ensures a transparent and consistent approach to licensing that reduces the opportunity for challenge through the courts.</p> <p>Challenges 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 departures from the policy will be based on material evidence and will be documents giving clear and compelling reasons for doing so.</p>
Equality and Diversity	<p>This policy seeks includes provision for requirements placed on licence holders to meet provisions of the Equality Act 2010</p>
Privacy and Data Protection	<p>None identified</p>

7 Appendices

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

- Appendix I: Draft statement of the Hackney Carriage and Private Hire Policy

- Appendix II Proposed new penalty point system
- Appendix III: Grid and recommendations for changes to the draft Hackney Carriage and Private Hire Policy

8 Background Papers

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976