

Date of Meeting 19 July 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

To seek Members' approval to recommend to Council adoption of an amended Taxi and Private Hire Licensing Policy

Report summary:

Taxi Licensing Policy – To seek Members' approval to recommend to Council adoption of an amended Taxi and Private Hire Policy.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That the Licensing and Enforcement Committee notes the content of the Department for Transport Statutory Taxi and Private Hire Vehicle Standards (the DFT Standards).

2. That the Licensing and Enforcement Committee considers the following proposed changes to the Hackney Carriage and Private Hire Policy:-

- a) Appendix D is amended to align the Hackney Carriage and Private Hire Licensing Criminal Convictions Policy with the 'Institute of licensing – Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades';**
- b) That applications are reviewed against the National Register of Revocations and Refusals (Part 1 Para 10.9);**
- c) Referral to the barred list where the individual is thought to present a risk of harm to a child or vulnerable adult (Part 1 Para 10.11);**
- d) Amendment of the notification period for Licence Holders/ Applicants to notify the Licensing Authority of arrest/ conviction/ caution Etc from 5 days to 48 hours;**
- e) Introduction of a requirement for vehicle proprietors to provide a basic DBS certificate as part of the application process (Part 2 Para 26.1);**
- f) Introduction of a mandatory requirement to display a "How to complain" sticker within Licenced vehicles (Part 2 para 28.4);**
- g) Introduction of a requirement from 1st April 2024 for private hire operators to obtain a basic DBS disclosure certificate for all controllers (call handling and dispatching staff), and have a written policy on employing ex-offenders (Part 2 Paras 41.6-41.7);**
- h) Introduction of additional record keeping requirements for private hire operators from 1st April 2024 (Part 2 para 48.1);**

3. That the Licensing and Enforcement Committee recommends to Council that the draft Hackney Carriage and Private Hire Policy, as amended, is adopted at the meeting on 18th October 2023.

Reason for recommendation:

The legislation does not require the Council to have a policy relating to the licensing of hackney carriages, private hire vehicles, their drivers and private hire operators, however it is regarded as good practice to have a policy to indicate the Authority's approach to taxi licensing within its area

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information Local Government (Miscellaneous Provisions) Act 1976
Report to Licensing & Enforcement Committee February 2021

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1 Background Information

- 1.1 Hackney carriage (taxi) and private hire vehicles 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, particularly in rural areas or outside “normal” hours for example in the evenings or at weekends, or for those with mobility difficulties.
- 1.2 The Council is responsible for the regulation of hackney carriage (taxis) and private hire services within the district. The legal framework for the taxi licensing regime is contained in numerous pieces of legislation, but primarily the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 1.3 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. The DFT published such statutory guidance in July 2020. This authority is expected to publish its consideration of the recommendations and measures in the standards, and ‘must have regard’ to the Standards when exercising Taxi Licensing functions. A review of the current Hackney Carriage and Private Hire Policy has therefore been undertaken and amendments to ensure compliance with the DFT Standards have been proposed for approval by the Committee.

- 1.4 One of the main requirements of the DFT Standards, is that Licensing Authorities should have a cohesive taxi and private hire policy document with a minimum review of every 5 years. The Policy was last substantively reviewed in 2017, but requires amendment to reflect the changes advocated in the DFT Standards.
- 1.5 A draft copy of the proposed Taxi Licensing Policy can be found at **Appendix A** to this report. For easier identification the taxi licensing policies and procedures which have been previously agreed by this council remain in black type font but the proposed additions to the policy can be identified as they appear highlighted. The updates are solely to assist the committee members with identifying those further changes that have been included since the document was last reviewed. As the Policy was only reviewed last in 2017 the amendments required to comply with the DFT Standards are more limited than for many other Licensing Authorities. In particular, the current Policy had already been amended to contain a requirement for driver licence holders to subscribe to the DBS update service, and mandatory safeguarding training.
- 1.6 A Hackney Carriage and Private Hire Licensing Policy is not a statutory policy. This means that there is no requirement for the Council to adopt one, although it is good practice to do so as it sets out the Council's approach to issuing licences and enforcement. Decisions made in accordance with the policy are more likely to be upheld in the event of an appeal. A good policy ensures consistency of approach by the council thus ensuring fairness and transparency for both the trade and public alike.
- 1.7 A review of the main points from the DFT Standards and comparison with the current and proposed policy can be found at Appendix B. A copy of the DFT Standards is also attached at Appendix C.

2.0 Options available and consideration of risk

- 2.1 Failure to publish its consideration of the DFT Standards and have regard to them when exercising Taxi Licensing functions would leave the Licensing Authority open to criticism for failing to follow statutory guidance.
- 2.2 Should the draft Policy not be adopted, the Council could therefore be open to criticism and potentially legal challenge.
- 2.3 The Committee may decide to direct that the draft Policy is amended further and brought back to a subsequent Committee meeting for approval, but any proposed changes must also have regard to the DFT Standards. Any decision to depart from the DFT Standards would require a compelling local reasoning.
- 2.4 The Committee may decide to put the proposed changes out to a public consultation, but as the proposed changes all relate to direction from the statutory guidance a public consultation has not been recommended in this instance.

Financial implications:

All officer time undertaken in the implementation of the proposed policy amendments in the months ahead will need to be evaluated and costed for consideration of the fees set by the Council to deliver the Taxi and Private Hire licensing regime. The additional costs arising from this work will be reported in more detail. Significant additional work has already been accounted for including signing up to the NR3 Register, approval of virtual Safeguarding awareness sessions, and administration of the DBS update service.

The associated preparation and publication costs will be met in full from Taxi/ Private Hire applications and renewal fees income.

Legal implications:

The proposed amended Policy is a comprehensive document which brings the Council's policy in line with current legislation and Statutory Guidance.

Section 177(1) of the Policing and Crime Act 2017 states that '[t]he Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm'. The Secretary of State for Transport published the attached guidance, 'Statutory Taxi and Private Hire Vehicle Standards' in July 2020. Section 177(4) states that '[a]ny public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.' Therefore, Licensing authorities are under a legal duty to have regard to the guidance.

In publishing this document, The Secretary of State for Transport stated that 'licensing authorities will be expected to fully implement these measures as soon as possible. The department will closely monitor progress, work with authorities not meeting their responsibilities and look to introduce legislation if licensing authorities fail to adopt the standards and update their operations.'

Paragraph 2.8 of the Standards states 'although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence.'