

This Report will be made public on 9 March 2020



Report Number: **OS/19/08**

To: Overview & Scrutiny Committee
Date: 17 March 2020
Status: Non- executive Decision
Responsible Officer: Amandeep Khroud, Assistant Director,
Governance, Law and Regulatory Services

SUBJECT: REVISED HACKNEY CARRIAGE AND PRIVATE HIRE (TAXI) LICENSING POLICY

SUMMARY: This report sets out proposed revisions to the Council's Hackney Carriage and Private Hire (Taxi) Licensing Policy. The policy was last reviewed in 2012 and whilst not time limited it is good opportunity to refresh the policy. The new policy will be sent for public consultation and then to Planning and Licensing Committee for approval. The purpose of this report is to give the Overview & Scrutiny Committee the opportunity to review the proposed changes and give feedback that can be incorporated in the development of the final policy.

RECOMMENDATIONS:

1. To receive and note report OS/19/08.
2. To consider and provide any feedback on the policy to be included in the consultation exercise and developed into final draft to be presented to the Planning and Licensing Committee for adoption.

1. BACKGROUND

- 1.1 The council has adopted the Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847 and as such is responsible for licensing the Hackney Carriage and Private Hire trade within the district. Licences are issued to drivers, vehicles and private hire operators
- 1.2 The council has a policy which sets out its approach to determining licensing applications and the conditions which it will apply to licence holders. Revisions to the policy have been limited and piecemeal. The most recent amendment was in 2012. There has been no formal review of the policy since that time.
- 1.3 The current policy “Hackney Carriage and Private Hire Vehicle and Driver Conditions and Procedures” is published on the council website
https://www.folkestone-hythe.gov.uk/media/46/Hackney-Carriage-and-Private-Hire-Vehicles-Driver-Conditions-and-Procedures/pdf/Hackney_Handbooklive_2012.pdf?m=637164963970970000
- 1.4 A full review and update of the policy has been carried out. A copy of the draft policy is attached to this report. The policy does not propose any radical changes but seeks to modernise and refresh the policy to ensure it is fit for purpose.
- 1.5 The policy is brought to this committee for review and comment prior to a period of public consultation.

2. KEY CHANGES TO THE POLICY

2.1 General Matters

- Improved layout and wording to provide clear, easy to understand, information for prospective applicants, licence holders and decision makers.
- A commitment to review the policy every 5 years.
- Inclusion of an enforcement policy specific to taxi licensing, including reference to use of “suspensions” for licence holders subject to allegations/ investigations for serious offences.
- Introduction of a “penalty points” scheme for breaches of licence conditions to promote compliance and act as an “early warning” to licence holders.
- Revised (and more stringent) policy on approach to applicants and licence holders with convictions and cautions, to largely reflect current Institute of Licensing Guidance.

- Inclusion of a general policy on refunds for surrendered licences.
- Removal of the complicated “proposals from trade” process, which set a process for reviews of the policy by the relevant licence holders.

2.2 Drivers

- Hackney Carriage only driver licence discontinued. Driver licences to be Private Hire only or Dual (Hackney Carriage and Private Hire combined)
- Removal of a minimum age for drivers (other than statutory requirement to have held a full driving licence for one year).
- Introduction of requirement for new drivers to pass a Driving Standards Assessment.
- Applicants failing knowledge test 3 times in 3 month period to wait 6 months before further application accepted.
- Provision of Disclosure and Barring Service (DBS) certificate to tie in with licence renewal. Drivers must sign up to the DBS online update service.
- Drivers residing abroad within 10 years prior to application to provide certificate of good conduct from relevant embassy (increased from 12 months).
- Interval for medical certificates for drivers aged 45-65 reduced from 4 years to 3 years, to be supplied as part of a renewal application. There is a proposed transitional process for existing drivers, to align this with licence renewal periods.
- Condition to notify of any medical condition affecting ability to drive or safety of passengers. Council may require additional medical assessments where reasonably required.
- Legal Obligations for assistance of passengers in wheelchairs or with assistance dogs clearly set out and incorporated into licence conditions.
- Condition to issue receipts for payment, where requested.
- Revision of basic dress code.

2.3 Private Hire Operators

- Condition requiring premises accessible to public to be covered by public liability insurance.

- Enhanced record keeping requirements concerning vehicles, drivers and booking details. Retention period for records increased from 3 months to 12 months.
- Correction to reflect Basic DBS is required for operators (not enhanced)

2.4 Vehicles

- Extend maximum age for newly licensed vehicles from 3 to 4 years. Maximum age for standard vehicle renewals clarified at 7 years (with 2 further years if in exceptional condition).
- Maximum age for new and relicensed Wheelchair Accessible Vehicle (WAV) increased to 6 years and 12 years respectively (matching that for “London Style” specification cabs).
- Policy not to permit “dual plating” of vehicles (i.e. vehicles will not be licensed if they hold a licence with another authority).
- Update of vehicle specifications and conditions e.g. relating to LPG conversions, use of Space saver tyres, tinted windows.
- Introduction of specific policy and conditions for stretch limousines.
- Inclusion of policy on exemptions from display of plates.
- Introduction of published “statutory list “of WAVs, which will be subject to requirements of Equality Act 2010.
- Valid inspection certificates to be maintained for mechanical lifting equipment used on WAVs.
- Update of advertising restrictions on vehicles.

2.5 Some key areas of the policy remain unchanged. As follows:

- There is no proposal to introduce mandatory CCTV in vehicles.
- No proposal to restrict numbers of Hackney Carriage Vehicles
- No proposal to require vehicles to be Wheelchair Accessible.

2.6 The proposed changes will not result in any increased in costs to the council. The proposed changes around DBS and medical certificates should increase efficiency of the process.

2.7 The proposed changes will increase direct costs to licence holders estimated as follows:

- Practical Driving Assessment for new drivers - £90

- Up to 2 extra medical checks over a 20 year period for drivers age between 45 and 65. Cost dependent on medical provider charges but estimated from £55 per check.
- Cost of public liability insurance policy for licensed private hire operators (although responsible operators may already hold a policy).

2.8 The changes to DBS checks will result in a saving to drivers of up to £34.50 per each 3 year licence period. The relaxation on age of newly licensed vehicles will allow potential savings for owners when purchasing a vehicle.

3. CONSULTATION

3.1 An 8-week consultation period is proposed. This will include direct consultation with key stakeholders, including:

- Hackney Carriage and Private Hire licence holders in the district
- F&HDC district councillors
- Town and Parish Councils
- Kent Police
- Kent County Council

The draft policy will also be published on the council website, inviting comments.

3.2 Following the consultation and amendments, the policy would be brought to the Planning and Licensing committee for consideration and adoption.

4. RISK MANAGEMENT ISSUES

4.1 Members of the Overview and Scrutiny Committee will be asked for their views of risks relating to this matter for consideration as the item is progressed.

Perceived risk	Seriousness	Likelihood	Preventative action

5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

5.1 Legal Officer's Comments (NE)

- The suspension of a drivers licence as an interim measure or holding exercise pending the outcome of a final decision (as proposed at paragraph 9.5 of Appendix J of the draft policy) is unlawful; this position having been established in two separate Court of Appeal judgements [Singh v. Cardiff 2012 and later Reigate and Banstead Borough Council v. Pawlowski 2017]. These judgements are binding on local authorities however there has been some debate as to whether section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 was correctly applied; some other local authorities having deviated from established case law and incorporating the

use of interim suspensions in their published policies. Whilst an interim suspension may appear to be a proportionate response in circumstances of public safety or crime and disorder where reasonable concern is raised about the suitability of a licensed driver to continue to hold a driver licence established legal precedent in these circumstances would be for the licence to be revoked.

5.2 Finance Officer's Comments (LH)

There are minimal financial implications arising from this report other than staff time in preparing and sending the consultation documentation out however, any small cost should be able to be contained within the existing budget.

5.3 Diversities and Equalities Implications (GE)

There are no negative equalities implications directly arising from this report. The policy makes clear reference to the obligations of drivers of both taxis and private hire vehicles to accommodate those with a physical disability under the Equality Act 2010. The notable introduction of a statutory list of wheelchair accessible vehicles (WAVs) to be publicised on the Council's website will positively assist wheelchair users in making more informed decisions about their day to day transportation needs.

6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Sarah Pinkstone, Environmental Health & Licensing Team Leader
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The following background documents have been relied upon in the preparation of this report:

Appendices:

Appendix 1: Draft Hackney Carriage & Private Hire Licensing Policy 2020