

This report will be made public on 9 November 2020



Report Number: **DCL/20/30**

To: Planning & Licensing Committee
Date: 17 November 2020
Status: Non-Executive Decision
Head of Service: Ewan Green – Director of Place

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

SUMMARY: This report sets out the next steps for publishing 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 a good opportunity to refresh the policy. The new policy has now been sent for public consultation and seeks approval with Planning and Licensing Committee. The purpose of this report is to highlight the feedback received during the consultation and give the Committee the chance to make any final amendments before it is published.

RECOMMENDATIONS:

- 1. To receive and note report DCL/20/30.**
- 2. To consider the feedback from the public consultation and make any amendments before 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.
- 1.2 The current policy "Hackney Carriage and Private Hire Vehicle and Driver Conditions and Procedures" is published on the council website.
- 1.3 A full review and update of the policy has now been carried out. In July 2020 the Department for Transport issued a document called 'Statutory Taxi & Private Hire Vehicle Standards' which contained a series of recommendations for Councils to implement unless 'there is a compelling reason not to'. This document is attached.
- 1.4 The draft policy was sent out for an 8 week public consultation and is attached to this report. The policy did not propose any radical changes but seeks to modernise and refresh the policy to ensure it is fit for purpose. Please note that a final review of grammar and layout will be carried out before the policy is published.
- 1.5. The policy includes a number of changes, some of which reflect the Statutory Standards recently issued by the Government Department for Transport. Key changes proposed include:

General

- Format and layout of policy has been overhauled.
- A commitment to review the policy every 5 years. Proposal from trade process removed.
- Clear Statement that shorter licences will not be granted on a probationary basis. Applicants are not given benefit of the doubt in 50/50 decisions.
- Decisions to refuse /revoke licences due to safeguarding concerns around risk to children or vulnerable adults will be notified to the DBS service.
- Inclusion of an enforcement policy specific to taxi licensing.
- Introduction of a "penalty points" scheme for breaches of licence conditions to promote compliance and act as an "early warning" to licence holders.
- All licence holders to notify the council of arrests and release, charges or convictions within 48 hours.
- Revised (and more stringent) policy on approach to applicants and licence holders with convictions and cautions, to reflect Institute of Licensing Guidance and Department of Transport Statutory Standards.

- Inclusion of a general policy on refunds for surrendered licences.

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).
- Requirement for new drivers to pass a Driving Standards Assessment.
- Requirement for drivers to complete an approved safeguarding training course. Transitional arrangements for existing drivers.
- 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 for continuous period of 3 months or more 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.

Private Hire Operators

- Operators (including all partners/ directors) to provide a Basic DBS check on an annual basis. (except for FHDC licensed drivers registered with the update service) In relation to new applicants, Individuals residing abroad for continuous period of 3 months or more within 10 years prior to application to provide certificate of good conduct from relevant embassy.
- Operators to maintain a register of staff employed to take bookings/ dispatch vehicles.
- Operator to see Basic DBS check for all staff employed to take bookings / dispatch vehicles. Transition period for existing operators.
- Operators to put in place a policy on employment of staff with convictions. Operators to ensure that other operators to whom they subcontract bookings have a similar policy in place.
- Operators must not dispatch Passenger Carrying Vehicles and licensed Public Service vehicle drivers to bookings without informed consent of hirer
- Condition requiring premises accessible to public to be covered by public liability insurance.

- Information on making complaints to licensing authority to be displayed in operators premises accessible to the public
- Enhanced record keeping requirements concerning vehicles, drivers and booking details. Retention period for records increased from 3 months to 12 months.

Vehicles

- Revision of age policy in respect of new and relicensed vehicles.
- Policy not to permit "dual plating" of vehicles
- 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 private hire stretch limousines.
- Inclusion of policy on exemptions from display of plate
- Introduction of published "statutory list "of Wheelchair Accessible Vehicles (WAV), 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.
- Vehicles to display information about how to make complaint to the licensing authority.
- Vehicle proprietors (including all partners/ directors) to supply a Basic DBS check on annual basis. (Except for FHDC licensed drivers registered with the DBS update service) In relation to new applicants, individuals residing abroad for continuous period of 3 months or more within 10 years prior to application to provide certificate of good conduct from relevant embassy (increased from 12 months).
- Council to be notified if directors/ partners change.

2 CONSULTATION

2.1 The following is a list of consultees that were sent the taxi policy:

Current FHDC taxi licence holders (Vehicle, Driver & Private Hire Operator)
 FHDC Ward Councillors
 Town Councils
 Parish Councils
 Kent Police
 Kent County Council Social Services
 Campaign For Better Transport
 Kent Invicta Chamber of Commerce
 Age UK Folkestone
 Age UK Hythe & Lyminge
 Romney Marsh Day Centre
 Kent Association for the Blind
 Disability Information Services Kent (DISK)
 Information Advice & Support Kent

It was also advertised to the public via our website, a press release and through social media.

2.2 Four responses were received that are relevant to the policy, these are summarised below. Two other responses contained comments that were general to taxi licensing and will be taken onboard separately.

- i) The amount of Hackney vehicles should be limited in the District, there are too many taxis in the town and only the taxi companies and the Council are making a profit. The owners of the vehicles have to bear all of the costs with increasing insurance, fuel, maintenance and licensing costs. Also it should be a requirement for all drivers to register with HMRC.
- ii) Regarding the age policy of vehicles, as hybrid cars are more environmentally friendly than diesel cars you should consider accepting 5 year old hybrid cars and keep diesel cars at 3 years old when first licensed.
- iii) A strict dress code should not be implemented as drivers need to be comfortable but I agree they should be smart. Drivers who apply for Private Hire should be made to apply for a Hackney licence within a year as there are too many Private Hire drivers/vehicles being licensed. I disagree with no age limit of drivers, it should be a minimum of 21 to keep up standards. Advertising should be allowed on the doors of vehicles, with pre-approval by the Licensing Officer.
- iv) I do not agree with removing the age limit for drivers. An 18 year old does not have enough life skills or road sense for this role where they work with vulnerable people.

2.3. With regards to the age policy of drivers, in the document Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, issued in March 2010 by the DFT it says the following:

It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.

3. NEXT STEPS

3.1. Councillors are asked to decide if these points raised in the consultation should result in the draft policy being amended or if it should be published as it stands.

4. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

4.1. Legal Officer's Comments (TH)

The Council has a duty to provide for the licensing of hackney carriages under the Town Police Clauses Act 1847 and under the relevant adopted provisions of the Local Government (Miscellaneous Provisions) Act 1976. In

addition, the adopted provisions of the 1976 Act mean that the Council must provide for the licensing of private hire drivers, vehicles and operators. There is no statutory requirement to adopt a Taxi Policy however it is considered best practice to do so in order to have an open and transparent licensing regime. Such a policy is necessary to ensure proper regulation of the trade and to ensure that high standards are maintained.

The fundamental purpose of the licensing regime is to protect the safety of the public. This means the Council must ensure that only fit and proper persons are licensed to be drivers, operators and holders of vehicle licences and that vehicles remain safe and fit for the purpose.

Failure of the Council to properly regulate Hackney Carriage and Private Hire licensing in the district and a failure to maintain a policy that is fit for purpose leaves the Council and any decisions made in relation to licensing open to legal challenge. Any such challenge carries both financial and reputational risk for the Council.

The Council must have regard to all relevant legislation and ensure that consultation process is followed correctly, in order to minimise the risk of any legal challenge.

4.2. 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.

4.3. 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

5. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

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

Briony Williamson, Licensing Specialist
Telephone: 01303 853475
Email: briony.williamson@folkestone-hythe.gov.uk

Background documents:

The current Taxi Policy/Handbook is available on our 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

The Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, issued in March 2010 by the Department For Transport is available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

The DFT Statutory taxi and private hire vehicle standards issued in July 2020 is available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

Attachment:

Draft Hackney Carriage & Private Hire Licensing Policy (2020).