

# HAVANT BOROUGH COUNCIL

LICENSING COMMITTEE

12 June 2023

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## HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY REVIEW

FOR APPROVAL FOR CONSULTATION

Portfolio Holder: Councillor Elizabeth Lloyd

Key Decision: No

Report number: HBC/008/2023

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### 1. Purpose

- a. This report outlines the proposed changes to the Council's current policy on the licensing of hackney carriage and private hire drivers, vehicles and private hire operators, and proposed changes to licence conditions. The proposals primarily relate to recommendations made by the Department for Transport in its July 2020 publication, *Statutory Taxi and Private Hire Vehicle Standards*.

### 2. Recommendation

- a. Members are requested to:
  - i. Approve the draft policy and licence conditions for public consultation.
  - ii. Where no adverse comments are received during the consultation, recommend the policy for adoption by Full Council.
  - iii. Where adverse comments are received during the consultation, consider these comments and make any necessary amendments before recommending this policy for adoption by Full Council.

### **3. Executive Summary**

- a. The Department for Transport published its 'statutory taxi and private hire vehicle standards' in July 2020, with the aim to establish common core minimum standards across the taxi and private hire sector, and to protect children and vulnerable adults. The Department for Transport expects all licensing authorities to implement the recommendations contained in the publication unless there are compelling local reasons not to. The 2020 publication replaces the relevant sections of the Best Practice Guidance issued by the Department for Transport in 2010.
- b. The Department for Transport recommends that all licensing authorities publish their consideration of the recommendations. This document can be found at Appendix B.
- c. The recommendations include, but are not limited to: enhanced DBS checks for drivers every six months; annual DBS checks for vehicle proprietors and private hire operators; requirement to disclose relevant information within 48 hours and on application; requirements for the licensing authority to participate in the National Register of Taxi and Private Hire Vehicle Revocations, Refusals and Suspensions (NR3S); mandatory safeguarding training for all licensed drivers and private hire operators; and requiring private hire operators to maintain specific records, including a register of all staff that take bookings or dispatch vehicles.
- d. The draft policy can be found at Appendix A.

### **4. Additional Budgetary Implications**

- a. Proposals relating to procuring a private sector contract for checking the DBS Update Service are detailed in Section 7 of this report.

### **5. Background and relationship to Corporate Strategy and supporting strategies and policies**

- a. Wellbeing: The taxi and private hire trade provides an invaluable service to many different customers, including children and vulnerable

persons. A robust policy on the regulation of the taxi and private hire trade is needed to ensure that the safety of the public is maintained and at the forefront of all licensing decisions. Furthermore, a safe and suitable taxi and private hire service benefits members of our community with disabilities or other additional needs, who may find it challenging to travel without the provision of a variety of public transport options.

- b. Pride in Place: the taxi and private hire licensing regime prioritises the safety of the public, and by regularly reviewing its policy the Council can ensure that it is working proactively to ensure the safety of taxi and private hire vehicle users, including children and vulnerable people. Furthermore, supporting the taxi and private hire trade with transparent and efficient processes enables them to continue providing a safe and professional service for residents, visitors and tourists.

The revised policy further seeks to encourage the licensing of hybrid and electric vehicles, to positively contribute to the Council's Climate Change Environmental Action Plan, by relaxing the age limit from 5 years to 8 years from the date of first registration.

- c. Growth: A thriving taxi and private hire trade contributes positively to the local economy, both through the licensing of small businesses as private hire operators and providing a valuable service to business commuters and customers of the night-time economy.

## **6. Options considered**

- a. The Council could opt not to give consideration to the Department for Transport's 'Statutory Taxi and Private Hire Vehicle Standards'; it could consider its existing Policy and conditions fit for purpose and propose no changes as a result of the publication. However, the licensing authority's main consideration in taxi and private hire licensing is public safety, and therefore it is essential that it seek to implement national guidance and recommendations that promote public safety wherever possible.

- b.** The Department for Transport's 'Statutory Taxi and Private Hire Vehicle Standards' recommends that all licensing authorities undertake a review into whether installation of CCTV in hackney carriage and private hire vehicles is proportionate and necessary. This is the only recommendation from the Department for Transport's publication that the Council is not currently in a position to take forward.
- c.** A comprehensive review of whether CCTV should be mandated in hackney carriage and private hire vehicles will require an additional resource, i.e., a temporary Licensing Officer, as this project could not be facilitated within the team's current resources.

## **7. Resource implications**

### **a. Financial implications**

- a.** The proposed changes to the policy include implementing six-monthly enhanced DBS checks for licensed drivers. The Council currently requires an enhanced DBS check from licensed drivers at the point of initial application, and every three years thereafter.
- b.** The Council proposes to mandate subscription to the DBS Update Service for all licensed drivers, enabling the Council to check each driver's DBS status online at least every six months. Subscription to the DBS Update Service is also more cost effective for drivers than obtaining a new certificate every six months.
- c.** The administrative burden of checking the DBS Update Service for every driver at this frequency is not possible within the Licensing Department's current resources. In order to comply with the Department for Transport's recommendations, the Council proposes to use the private sector to assist with checking the status of drivers' DBS checks, utilising the DBS Update Service.
- d.** The Council is working with the Procurement Team to approve a provider of DBS checks that can facilitate regular checks of the DBS Update Service. Initial discussions with service providers indicate that this service would cost the Council approximately £7.20 (VAT inclusive) per driver, per year, payable by the Council.

- e. It is proposed that the Council would pay for the initial cost of this private sector contract. The Council will undertake a fee review for taxi and private hire licences prior to April 2024, recovering the cost of the contract through the fees payable by applicants. Fees for taxi and private hire licences are set on a cost-recovery basis only, but this contract would be a legitimate cost to recover.
- f. The mandatory requirement for drivers to subscribe to the DBS Update Service would become 'live' at the point that each driver is next due to renew their licence. Driver licences are issued for three years, and 58 licences are due for renewal between 1 July 2023 and 31 March 2024 This would result in an approximate cost to the Council of £417.60 between these dates, not including any new applicants between policy adoption and fee review.
- g. The adoption of the revised policy and commencement of the relevant contract with the private sector would likely not take place until August-September 2023, further reducing the cost to the Council.
- h. The alternative to using the private sector for DBS Update Service checking would be to employ an additional Licensing Support Officer, at 20 hour per week, with an annual salary between £23,195 and £24,948 pro rata.

### **Section 151 Officer comments**

The recommendations have a small financial impact. However, the expected costs are significantly cheaper than the available alternatives. The costs proposed appear to be the most cost-effective way to meet the legal requirements of the service and the Council. Therefore, I support the report's recommendations in full.

Steven Pink – S151 23/05/2023

## **b. Human resources implications**

- i.** It is proposed that the revised Hackney Carriage and Private Hire Licensing Policy will be implemented using the department's current resources.
- ii.** It should be noted that any subsequent project undertaken to review the Council's policy on CCTV in licensed vehicles would require additional resources, but this is not proposed as part of this review.

## **c. Information governance implications**

- i.** The Licensing Team will continue to engage with the Council's Data Protection Officer on all information governance and data protection matters.
- ii.** There is no proposal to collect and/or process any additional data relating to taxi and private hire licences as a result of this policy review. However, the revised policy does provide clarity to applicants and licensees on how their data is processed and shared.
- iii.** The Council currently provides data to the National Register of Taxi and Private Hire Vehicle Revocations, Refusals and Suspensions (NR3S) which is part of the National Anti-Fraud Network (NAFN). The Register is a mechanism for licensing authorities to share details of individuals who have had a hackney carriage and/or private hire driver's licence revoked, suspended or an application refused. The Council's participation in this database is mandatory under the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 from April 2023. The Council began using the database voluntarily in February 2023.
- iv.** A comprehensive data protection impact assessment in relation to the N3RS database has been undertaken by the Council, and has been signed off by the Information Governance Manager and DPO.

#### **d. Climate and environment implications**

- i.** To support the Council's Strategy, the review of the Policy proposes to encourage the licensing of hybrid and electric vehicles by relaxing the age limit for vehicles at the point they are first licensed with Havant Borough Council.
- ii.** Currently, the Council requires vehicles to be no more than five years from the date of first registration at the point that they are first licensed as either a hackney carriage or private hire vehicle. This policy review proposes to amend this to no more than eight years from the date of first registration, for hybrid and electric vehicles. Older vehicles are more likely to be affordable for drivers and therefore more likely to be purchased for taxi and private hire work.

#### **e. Other resources implications**

- i.** Implementation of the Department for Transport's recommendations significantly increases the administrative burden on the Licensing Team in processing and issuing licences for the taxi and private hire trade. With the addition of mandatory participation in the NR3S database and the introduction of mandatory tax checks for drivers and operators in 2022, the challenges of using paper-based application forms have only become more apparent.
- ii.** To ensure an efficient licensing service for our customers, the Council may consider developing an online application system. This would enable customers to make their applications from home, upload supplementary documents online, reduce postage and printing costs and reduce incorrectly completed applications.

## 8. Legal implications

- a. The relevant legislation that governs the licensing of hackney carriage and private hire drivers, vehicles and operator does not directly require the Council to prepare and publish a policy. However, the Regulator's Code, which has statutory effect by virtue of section 22 of the Legislative and Regulatory Reform Act 2006, means the Council must have regard to the requirements of the Code. The development and regular review of a Policy will ensure that the Council satisfies its legal responsibilities with respect to specific elements of the Regulators' Code and will assist the council to demonstrate that it has had due regard to the Code in relation to this particular area of law.
- b. It is good practice for the Council to consult on any changes made to the Policy. A full, public consultation will be undertaken with all relevant stakeholders.
- c. The Policy creates transparency for all stakeholders providing the manner in which the Council intends to undertake its hackney carriage and private hire licensing responsibilities. Additionally, the Policy provides the Council with a basis for a robust defence to any challenges that may be encountered in respect of decisions made and enforcement action taken.

### **Monitoring Officer comments**

As outlined in the recommendations, approval of the draft policy and licence conditions for public consultation is a matter for the Licensing Committee. Constitutionally, Full Council is responsible for the adoption of Policy.

Jo McIntosh, Monitoring Officer 25/05/2023

## 9. Risks and mitigations

- a. Exposure to challenge: the Policy and associated conditions could be challenged by Judicial Review, but as an open and fair consultation will have taken place and the Council's decision-making process is considered lawful, a successful challenge is considered unlikely.



- b.** Reputation: the Policy and associated conditions set out the expectations of applicants and licensees, balancing their ability to work and generate income and the Council's responsibility to ensure public safety. By demonstrating that the Council is aligning its Policy with Government guidance on protecting children and vulnerable persons, the overall profile and reputation of the Council's Licensing Team is improved.
- c.** Achievement of outcome: the Department for Transport advised in its 2020 publication that it 'expects all licensing authorities to implement these recommendations unless there are compelling local reasons not to.' The Council has ensured that all recommendations are included in its revised Policy to demonstrate its commitment to achieving the Department for Transport's objectives.

## **10. Consultation**

- a.** The Council's 'Hackney Carriage and Private Hire Licensing Guidance' was last reviewed in January 2016. Whilst the proposed changes are strongly recommended by the Department for Transport, some of them present considerable changes to how licensed drivers, vehicle proprietors and operators interact with the Council as the licensing authority. Additional burdens, such as training requirements and the keeping of specific records for operators, are proposed to be introduced. It is important that the taxi and private hire trade are consulted on these changes to ensure that they have an opportunity to make comments and be made aware of upcoming changes.
- b.** It is proposed to undertake a 4 week public consultation, with key stakeholders notified directly of the proposed changes. A list of proposed consultees can be found at Appendix C. As the Department for Transport's 2020 publication aims to protect children and vulnerable persons, efforts have been made to include organisations that represent these groups.
- c.** It is proposed to develop an online survey to collect and analyse responses to the consultation.

## **11. Communications**

- a. The Licensing Team will work with the Council's Public Relations Team to share details of the consultation and how to make comments on the appropriate social media channels and in other public communications.

## **12. Appendices**

- Appendix A – Draft Hackney Carriage and Private Hire Licensing Policy
- Appendix B – Consideration of Department for Transport's Statutory Taxi and Private Hire Vehicle Standards
- Appendix C – List of key stakeholders / consultees

## **13. Background papers**

- a. Licensing Committee – Wednesday 13 January 2016 17:00, Item 29:  
Proposed Changes to the Current Policy and Vehicle Specification for Hackney Carriages and Private Hire Vehicles

### **Agreed and signed off by:**

**Portfolio Holder:** Councillor Elizabeth Lloyd – 30/05/2023

**Executive Head:** Alex Robinson – 31/05/2023

**Monitoring Officer:** Jo McIntosh – 25/05/2023

**Section 151 Officer:** Steven Pink – 23/05/2023

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