

REPORT TITLE: TAXI POLICY REVIEW

19 JULY 2022

REPORT OF CABINET MEMBER: Councillor Jackie Porter, Cabinet Member for Place and Local Plan

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WARD(S): GENERAL

PURPOSE

Following the Department for Transport's publication of its 'Statutory taxi and private hire vehicle standards' in July 2020, and both trade and public consultation, a report was submitted to Licensing and Regulation Committee on 7 June 2022 which sought to amend the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators ("the Policy"), and the three associated sets of licence conditions for drivers, vehicles and operators (report LR560 refers).

At that meeting, the Licensing and Regulation Committee approved the proposed changes to the three sets of conditions, and agreed to refer the reviewed Policy to Cabinet for adoption. An extract of the minutes of the meeting are attached as Appendix 2.

RECOMMENDATIONS:

That the Statement of Licensing Policy as relates to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators contained in Appendix 1 be adopted.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 Vibrant Local Economy
- 1.2 Supporting our taxi and private hire trade (private hire operators and self-employed drivers) to provide a safe and professional service for residents, visitors and tourists.
- 1.3 Living Well
- 1.4 The taxi and private hire provide an invaluable service to many different customers, especially those who are less mobile without their own personal means of transport and rely on licensed drivers to pick them up and drop them off door to door. Without this service, some members of our community would find it more challenging to move around the district and beyond.
- 1.5 Your Services, Your Voice
- 1.6 This Policy seeks to make improvements to ensure the safety of the public travelling in licensed vehicles. This gives the public confidence when using this service. For example, the display of information on how to give feedback on licensed drivers and vehicles to the Council, and increased frequency of DBS checks.

2 FINANCIAL IMPLICATIONS

- 2.1 Changes to the Policy propose to increase the frequency of enhanced DBS checks of hackney carriage and private hire drivers from every 3 years to every 6 months, in line with the Department for Transport's recommendations.
- 2.2 This administrative burden of checking DBS certificates at this frequency is not possible within the Licensing Department's current resources.
- 2.3 In order to meet this new requirement of the policy it is proposed to use the private sector to assist with checking the status of drivers' and operators' DBS checks, utilising the existing DBS Update Service.
- 2.4 A demonstration to the Council by its current DBS provider showed that the company would manage the drivers' and operators' DBS applications and Update Service registration from beginning to end, and provide a report every 2 weeks on the status of all licensees' DBS checks.
- 2.5 This service would cost £5 + VAT per driver, per year, payable by the Council. The Council currently licences approximately 248 drivers. Other private sector providers are available and advice from the Council's Procurement Team will be taken on whether we are required to go out to tender for these services or if it falls within the scope of the current contract.

- 2.6 It is the Licensing Department's intention to propose a review of the fees due for taxi and private hire applications in 2023, ready for the 2023/24 financial year, aiming to recover the cost of this service through the application fees for hackney carriage and private hire driver's licences.
- 2.7 It is proposed that the Council will absorb the additional cost of the private sector contract for checking DBS certificates in the financial year 2022/23, noting that the trade is still slowly recovering financially from the effects of the coronavirus pandemic. Based on approximately 248 drivers, this is estimated at £1,240 + VAT. The Council will consider reviewing its application fees ready for the 2023/24 financial year, noting that the trade will have benefited from more time to recover financially and thus be more likely to reasonably afford a slight increase in fees to cover the cost of the private sector contract.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The legislation that specifically controls the licensing of hackney carriages and private hire vehicles, drivers and operators, does not contain provisions that directly require the Council to prepare and publish a hackney carriage and private hire licensing policy.
- 3.2 Nevertheless, the Regulators' 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 of a hackney carriage and private hire licensing policy to guide licensing activities 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.
- 3.3 It is good practice for local authorities to consult on any changes made to the Statement of Licensing Policy. A full consultation was correctly undertaken which engaged with all relevant stakeholders – see paragraphs 6 and 7 below.
- 3.4 The proposed Policy enables the Council to demonstrate that it takes its hackney carriage and private hire licensing role seriously. 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. The proposal to use the private sector to assist with checking the status of drivers' and operators' DBS checks will require a robust procurement procedure. The Licensing Department will work with the Procurement Team to ensure that the process to secure an external provider for the service is in accordance with Council's Contract Procedure Rules and the Public Contract Regulations 2015.

- 3.5 The Council's Procurement Team have advised that for a total contract value of up to £10k, one written quotation would be required to satisfy the Council's Contract Procedure Rules.

4 WORKFORCE IMPLICATIONS

- 4.1 The Policy review and implementation of the proposed changes will, with the exception of checking 6-monthly DBS checks (see above), be managed within the Licensing Department's current resources.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None.

6 CONSULTATION AND COMMUNICATION

- 6.1 A full trade and public consultation was undertaken with regards to the proposed changes to the Policy and associated conditions. The consultation period was held from 14 February 2022 to 14 March 2022, published on the Council's website and notice displayed at the City Offices' Main Reception. All licensed hackney carriage and private hire drivers, vehicle proprietors and private hire operators received details of the proposed changes and links to the consultation survey via email and post.
- 6.2 A total of seven responses were received to the consultation, four of which were from licensed hackney carriage or private hire drivers and three from the public and/or other stakeholders.
- 6.3 It is believed that the low number of responses to the consultation is due to the fact that the proposed changes do not adversely affect the majority of the trade. The vast majority of changes will only have adverse impact on applicants and existing drivers with criminal convictions, which represents a very small minority of the trade in Winchester. Proposed changes such as the increased frequency of DBS checks actually benefit the licensees financially.
- 6.4 The consultation results can be found at Appendix 5 to this report.
- 6.5 Members of the Licensing and Regulation Committee were briefed on the proposed changes to the Policy and associated conditions at the meeting held on 8 December 2021, during which a number of Members' questions were answered by the Interim Licensing Manager.
- 6.6 Proposed changes and consultation details have been communicated via email with the Taxi and Private Hire Forum, currently consisting of four members of the trade. They have been kept abreast of the changes and their potential impacts on the trade throughout the drafting process and no concerns have been raised.

6.7 Proposed changes were also discussed with the Chair of the Licensing and Regulation Committee and Portfolio Holder for Climate Emergency prior to trade and public consultation.

6.8 The proposed changes to the policy and conditions were presented to the Licensing and Regulation Committee on 7 June 2022. An extract of the minutes of the meeting can be found at Appendix 3. No adverse comments were received and the Committee agreed to both approve the draft conditions and refer the draft policy to Cabinet for adoption.

7 **Consultation Responses**

7.1 A report of consultation responses can be found at Appendix 4 to this report. The report indicates that the majority of respondents agreed with the Council's proposals, and that matters relating to public safety and safeguarding of children and vulnerable adults were important to them.

8 ENVIRONMENTAL CONSIDERATIONS

8.1 None.

9 PUBLIC SECTOR EQUALITY DUTY

9.1 The Council is committed to offering a range of vehicles for all customers. The current Policy requires all new hackney carriage vehicles to be wheelchair accessible; there is no proposal to change this.

9.2 The current Policy also requires all new and current drivers to have completed an approved Disability Awareness Training session and, for those who drive wheelchair accessible vehicles, a Wheelchair Assessment. There is no proposal to change these requirements.

9.3 The proposed changes to the Winchester City Council's Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private hire Operators arising from the Department for Transport's publication of its 'Statutory taxi and private hire vehicle standards' do not give rise to concerns regarding the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people.

9.4 A draft Equality Impact Assessment was reviewed by the Licensing and Regulation Committee on 7 June 2022 and no adverse comments were received.

10 DATA PROTECTION IMPACT ASSESSMENT

10.1 The proposed changes to the Policy include the requirement for the licensing authority to consider whether it is appropriate to make a referral to the Disclosure and Barring Service where a hackney carriage and/or private hire driver's licence is revoked, or an application refused. This referral would

include the licensee's name, date of birth, address and relevant details of the reasons for refusal or revocation.

- 10.2 The proposed changes to the Policy include the requirement for the licensing authority to consider whether it is appropriate to notify the police where a hackney carriage and/or private hire driver's licence is revoked, or an application refused, if done so on public safety grounds. This referral would include the licensee's name, date of birth, address and relevant details of the reasons for refusal or revocation.
- 10.3 It is proposed to use information stored on the National Anti-Fraud Network's NR3 database to inform the licensing authority's decision on whether an applicant or current licence holder is 'fit and proper' to hold a licence.
- 10.4 It is also proposed to contribute to the National Anti-Fraud Network's NR3 database with details of any applications refused or licences revoked. This referral would include the licensee's name and confirmation of whether the licence was refused or revoked.
- 10.5 A draft Data Protection Impact Assessment (DPIA) has been carried out by the Interim Licensing Manager. The purpose of the DPIA is to enable any data protection and privacy implications to be considered and if necessary, mitigated. This was reviewed by the Licensing and Regulation Committee on 7 June 2022 and no adverse comments were received.

11 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	<p>Referring to 3.6 above, it is the Council's intention to undertake a fee review prior to the 2023/24 financial year which will incorporate the cost of private sector contracts required to fulfil the requirements of this policy.</p> <p>It is possible that the Council choose not to approve increased fees, and so there is an element of financial risk in these proposals in that the Council may, if increased fees are not increased, incur an</p>	

	additional cost of £1,240 + VAT per annum.	
Exposure to challenge	<p>The Policy and associated conditions could be challenged by Judicial Review, but as an open and fair consultation has taken place and the Council's decision-making process is lawful, a successful challenge is considered unlikely.</p> <p>A full consultation was correctly undertaken which engaged with all relevant stakeholders, with guidance from the Council's Legal Team.</p>	There is an opportunity through public consultation to raise awareness of the various safeguarding measures in place to ensure public safety in relation to using taxis and private hire vehicles.
Innovation	N/A	
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.	
Achievement of outcome	The Department for Transport has indicated in its 'Statutory taxi and private hire vehicle standards' document that it <i>'expects all licensing authorities to implement these recommendations unless there are compelling local reasons not to.'</i> By reviewing the Policy and associated conditions the Council has ensured that all recommendations are implemented where possible, and	<p>Opportunity to improve the safety of users of taxis and private hire vehicles, including children and vulnerable people, by implementing the recommendations of The Department for Transport. Also an opportunity to increase public confidence in using these methods of transport, knowing that they are safe and regulated.</p> <p>Opportunity to review the Policy and associated</p>

	documented reasons are provided where these recommendations have not been implemented.	conditions to ensure that they are fit for purpose and relevant to current legislation, guidance and safeguarding practices. Opportunity once the reviewed Policy and conditions are published to raise awareness of the safeguards in place to ensure public safety in relation to use of taxis and private hire vehicles.
Property	N/A	
Community Support	All elected Members, licensed hackney carriage and private hire drivers, vehicle proprietors, private hire operators and the public have been consulted.	
Timescales	The current Policy and associated conditions will remain live under the reviewed versions are adopted. It is anticipated that the Policy will be adopted either at the next Decision Day, or by the relevant Cabinet Member should they opt not to send this report to Cabinet	
Project capacity	N/A	
Other	N/A	

12 SUPPORTING INFORMATION:

Background

- 12.1 The Department for Transport published its 'Statutory taxi and private hire vehicle standards' in July 2020, with the document focusing on establishing common core minimum standards across the taxi and private hire sector and aiming to protect children and vulnerable adults.

- 12.2 The Department for Transport expects all licensing authorities to implement these recommendations unless there are compelling local reasons not to.
- 12.3 The standards in the document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in the more recently published document take precedence.
- 12.4 The Department for Transport states that, in the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.
- 12.5 The Council has published a comprehensive document that outlines its consideration of the standards and how it intends to implement them. This has formed the basis of a review of the Policy and associated conditions. This document can be found at Appendix 3 to this report.
- 12.6 The recommendations include, but are not limited to: 6 monthly enhanced DBS checks for drivers; yearly DBS checks for vehicle proprietors and private hire operators; requirement to disclose relevant information to the licensing authority within 48 hours and on application; mandate the display of licensing authority contact details in licensed vehicles; require private hire operators to write a policy on employing ex-offenders; and require private hire operators to maintain a register of all staff that take bookings or dispatch vehicles.

Proposals

- 12.7 Several of the proposed changes have been included in the revised licence conditions for drivers, vehicles and operators. These three sets of conditions were approved by the Licensing and Regulation Committee on 7 June 2022.
- 12.8 The proposed changes to the policy can be found tracked in Appendix 1 of this report. The changes are explained in full in Appendix 3, and summarised below.

Hackney Carriage and/or Private Hire Drivers

- 12.9 Mandate the requirement for all hackney carriage and private hire drivers to be signed up to the DBS Update Service, and give consent to the licensing authority checking the status of their DBS at least every six months. Those who fail to sign up to the DBS Update Service shall be subject to six-monthly enhanced DBS checks, complete with checks of the Barred Lists. (*The Council currently requires enhanced DBS checks every 3 years, and registration to the DBS Update Service is only advised*).

- 12.10 Require hackney carriage and private hire drivers to obtain a new enhanced DBS check, complete with checks of the Barred Lists, where the DBS Update Service indicates that there have been changes to their record.
- 12.11 Require an applicant to submit a 'Certificate of Good Character' where they have spent an extended period (six or more continuous months) outside the UK. Where the time spent outside the UK was prior to the applicant turning 18 years old, this may not be required but will be considered on a case-by-case basis. *(The Council currently requires applicants that have lived in the UK for less than 10 years at the time of first application to provide a Certificate of Good Character. It is proposed to replace this requirement with the more robust recommendation made by the Department for Transport).*
- 12.12 Require licence holders to disclose to the Council in writing, within 48 hours, any arrest, charge, conviction, caution, fixed penalty notice or community resolution imposed on them during the period of licence. *(The Council currently requires licence holders to only disclose convictions and cautions within 7 days).*
- 12.13 Specify the following as an offence for which up to 6 local authority penalty points can be applied to a hackney carriage or private hire driver's licence: Failure to notify the Licensing Authority, in writing, of any arrest, charge, conviction, caution, fixed penalty notice or community resolution within 48 hours during period of licence. *(Not currently specified).*
- 12.14 Requirement for all applicants and current licence holders to disclose if they have a licence suspended by another licensing authority, in addition to already being required to disclose whether a licence has been refused or revoked. *(The Council currently only requires applicants and current licence holders to disclose refusals or revocations).*

Hackney Carriage and Private Hire Vehicles

- 12.15 Mandate basic Disclosure and Barring Service checks for vehicle proprietors every 12 months, and advise registration to the DBS Update Service. Individuals who are already licensed as hackney carriage or private hire drivers (and thus have a six-monthly enhanced DBS check) need not comply with this requirement. *(The Council does not currently require DBS checks from vehicle proprietors).*
- 12.16 For clarity, an individual who is not a licensed driver may apply to license a hackney carriage or private hire vehicle, and then permit another person who is a licensed driver to use the vehicle for work purposes.
- 12.17 Require that where the applicant for a hackney carriage or private hire vehicle licence is a company or partnership, all directors or partners of that company or partnership shall provide a basic Disclosure and Barring Service check. Where directors or partners are already licensed as hackney carriage or private hire drivers (and thus have a six-monthly enhanced DBS check), they

need not comply with this requirement. *(The Council does not currently require DBS checks from vehicle proprietors).*

- 12.18 Where the applicant for a hackney carriage or private hire vehicle licence has spent an extended period (six or more continuous months) outside of the UK, they must supply a Certificate of Good Character from their embassy or from the country in which they have been living. *(The Council currently requires applicants that have lived in the UK for less than 10 years at the time of first application to provide a Certificate of Good Character. It is proposed to replace this requirement with the more robust recommendation made by the Department for Transport).*

Private Hire Operators

- 12.19 Mandate basic Disclosure and Barring Service checks for private hire operators every 12 months, and advise registration to the DBS Update Service. Individuals who are already licensed as hackney carriage or private hire drivers (and thus have a six-monthly enhanced DBS check) need not comply with this requirement. *(The Council currently requires basic DBS checks every 3 years).*
- 12.20 Require that where the applicant for a private hire operator licence is a company or partnership, all directors or partners of that company or partnership shall provide a basic Disclosure and Barring Service check. Where directors or partners are already licensed as hackney carriage or private hire drivers (and thus have a six-monthly enhanced DBS check), they need not comply with this requirement. *(The Council currently requires basic DBS checks every 3 years).*
- 12.21 Where the applicant for a private hire operator licence has spent an extended period (six or more continuous months) outside of the UK, they must supply a Certificate of Good Character from their embassy or from the country in which they have been living. *(The Council currently requires applicants that have lived in the UK for less than 10 years at the time of first application to provide a Certificate of Good Character. It is proposed to replace this requirement with the more robust recommendation made by the Department for Transport).*

Licensing Authority Actions / Decisions

- 12.22 Commitment to reviewing the Statement of Licensing Policy at least every five years, with provision made for interim reviews where necessary. *(Not currently specified in Policy).*
- 12.23 Requirement for Council to consider whether it is appropriate to make a referral to the DBS where a hackney carriage and/or private hire drivers licence is revoked, or an application refused. *(Not currently specified in Policy).*
- 12.24 Requirement for Council to consider whether it is appropriate to notify the police where a hackney carriage and/or private hire driver's licence is

revoked, or an application refused, if done so on public safety grounds. *(Not currently specified in Policy)*.

- 12.25 Information stored on the National Anti-Fraud Network (NR3) may be used to inform the licensing authority's decision on whether an applicant or current licence holder is 'fit and proper' to hold a licence. *(Not currently specified in Policy)*.

Conclusion

- 12.26 The Council has fulfilled its duty to consider the Department for Transport's statutory standards, implementing recommendations wherever possible in the interests of public safety and the safeguarding of children and vulnerable adults.
- 12.27 The Council's paramount consideration is the safety of the public. However, it must also keep in mind that it is dealing with a trade that has been severely impacted by the coronavirus pandemic. None of the proposed changes in this report are expected to result in unnecessarily financial burden for the trade.
- 12.28 In implementing the Department for Transport's recommendations the Council seeks to encourage the public to continue using taxi and private hire vehicles, confident that they will be safe.

13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 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.
- 13.2 The Council could opt to increase application fees this financial year in response to the proposal to use the private sector to check DBS certificates. The Council acknowledges the financial pressure that the taxi and private hire trade has been under during and since the coronavirus pandemic, and seeks to support the trade where possible. It has therefore been proposed that the additional cost of the private sector services will be absorbed by the Council for the first year, enabling the trade to continue with its essential financial recovery.

CCTV

- 13.3 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.

- 13.4 This is the only recommendation from the Department for Transport's recommendations that the Council is not currently in a position to take forward. An outline of reasons for this included in Appendix 4 to this report.
- 13.5 The Licensing Department is currently gathering relevant information to inform a comprehensive review of whether CCTV should be mandated in hackney carriage and private hire vehicles licensed by Winchester City Council. Part of this review will include gathering views from the taxi and private hire trade and the general public.
- 13.6 During the consultation conducted for the purposes of this Policy review, the Council included the following question: *Do you agree or disagree that the Council should conduct a review into whether mandatory CCTV in taxis and private hire vehicles is both proportionate and necessary?*
- Consultation responses indicated that two respondents 'strongly agreed', three respondents 'agreed' and two respondents 'neither agreed nor disagreed.'
- 13.7 The Council is committed to reviewing whether CCTV in hackney carriage and private hire vehicles is proportionate and necessary, but requires more time to gather the relevant data and conduct a thorough consultation.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

- LR535: [Review of Hackney Carriage and Private Hire Policy Phase 2](#)
Tuesday 15 September 2020
- Briefing Paper: [Proposed forthcoming changes to taxi policy](#)
Wednesday 8 December 2021
- LR560: [Taxi Policy Review](#)
Tuesday 7 June 2022

Other Background Documents:-

- [Statutory taxi and private hire standards](#) (Department for Transport, July 2020)

APPENDICES:

Appendix 1 - Draft Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators

Appendix 2 – Minute extract from Licensing and Regulation Committee held 7 June 2022

Appendix 3 – Consideration of Department for Transport's Statutory Standards

Appendix 4 - Taxi Policy Review Consultation Responses Feb-March 2022