

REPORT TITLE: REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE
LICENSING POLICY – PHASE ONE – CONSULTATION RESPONSE

19 SEPTEMBER 2019

REPORT OF CABINET MEMBER: Cllr Lynda Murphy, Cabinet Member for
Environment

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WARD(S): ALL

PURPOSE

The consultation has now ended for Phase one of the review of the hackney carriage and private hire Policy. This report seeks to make a minor amendment to the Policy following comments received during the consultation period.

RECOMMENDATIONS:

1. That Licensing and Regulation Committee approve the proposed amendment to the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators. The reason for this change is outlined in section 12 of the report.
2. That Licensing and Regulation Committee approve the removal of the words underlined and highlighted in red from the previously proposed wording of the revised Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators at paragraph 8.6 Safeguarding below:
- 3) That Licensing and Regulation Committee agree to refer the amended Statement for consideration of adoption by Cabinet.

8.6 Safeguarding

- a All Operators licensed before 25 February 2019 and their employees who act as an operator on their behalf must pass the Council's approved safeguarding training no later than 31 October 2019. Failure to do so will result in their Licence being suspended or revoked or not being renewed. The pass certificate must be provided with the application to renew a hackney carriage and/or private hire driver's licence.
- b All Drivers, Operators and their employees who act as an operator on their behalf will be required to update their safeguarding training upon the Council's request using a Safeguarding Training Provider/assessment approved by the Council.

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

- 1.1 This report relates to ensuring the safety of the public using taxis and private hire vehicles licensed by the Council.

2 FINANCIAL IMPLICATIONS

- 2.1 The changes to the policy and implementation do not require any additional resource implications. The cost of implementation will be covered by the existing 'Tip Top Taxi' project budget.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The basis for determining the Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Drivers, Vehicles and Private Hire Operators is set out in Part 3.3 of the Council's constitution at paragraph 3.ii); Delegation of functions and Table D which provides that the Licensing and Regulation Committee is the correct forum for recommendation to Cabinet of Hackney Carriage and Private Hire policies. Legal Services has reviewed the draft policy and amendments in the recommendations.

- 3.2 Statutory consultation is required and has been carried out with all stakeholders.

- 4 Whilst a Judicial Review challenge is a possibility where there has been a lack of meaningful consultation; irrelevant information has been taken into account or relevant information has not been considered, as there has been full compliance with the correct procedures, the risk of a successful challenge is considered minimal.

5 WORKFORCE IMPLICATIONS

- 5.1 Two members of the licensing team have been seconded to the Tip Top Taxi project to undertake the review of the Policy

6 PROPERTY AND ASSET IMPLICATIONS

- 6.1 None

7 CONSULTATION AND COMMUNICATION

- 7.1 All licence holders were consulted on the proposed changes to the Policy with the consultation period held from 17 June 2019 to 31 July 2019.

- 7.2 One comment was received.

8 ENVIRONMENTAL CONSIDERATIONS

- 8.1 The Council's Clean Air Policy will be considered as part of phase 2 of the Policy review which will propose to reduce the size of vehicles and offer incentives to licence environmentally friendly vehicles.

9 EQUALITY IMPACT ASSESSEMENT

- 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.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 Information and personal details of licensed drivers and operators are kept on a secure system and no changes are proposed.

11 RISK MANAGEMENT

| Risk | Mitigation | Opportunities |
|--------------------------|--|----------------------|
| <i>Property</i> | N/A | |
| <i>Community Support</i> | There is a working party involving the Portfolio Holder for Environment and the Chairman of the Licensing and Regulation Committee. | |
| <i>Timescales</i> | The reviewed Policy will take effect once adopted by Cabinet. | |
| <i>Project capacity</i> | N/A | |
| <i>Financial / VfM</i> | N/A | |
| <i>Legal</i> | The Policy could be challenged by Judicial Review, but as the Council's decision-making process is believed to be lawful, a challenge is considered to be unlikely. | |
| <i>Innovation</i> | N/A | |
| <i>Reputation</i> | The Council's paramount consideration is to protect the public. This Policy sets out what is required of new applicants and current licence holders in line with relevant legislation. | |
| <i>Other</i> | N/A | |

12 SUPPORTING INFORMATION:

- 12.1 Following Members' approval of the recommendations in committee report LR520 on 6 June 2019, a consultation exercise was undertaken from 17 June 2019 to 31 July 2019. This resulted in one representation from a private hire operator licensed by the Council.

- 12.2 Officers are required to bring this representation to the attention of committee Members before a decision is made on whether to implement the proposed amendments. As part of the consultation exercise the project officers agree with the consultation response that an amendment is required and are therefore bringing this to the attention of the Licensing Committee for their approval.
- 12.3 The background to this proposed amendment is as follows; Driver safeguarding training was successfully delivered to all hackney carriage and private hire drivers. Some Operators' ancillary staff (phone call takers) attended voluntarily. This was possible as there were spare places available and it was considered to be beneficial.
- 12.4 National guidance suggests that ancillary staff should be required to have a basic DBS check and officers added to this proposal a requirement that ancillary staff should also receive Safeguarding training in the belief that this was beneficial generally. However, during the consultation period, the responder expressed his concern that this would delay Operators' ability to recruit staff if it was required as a condition of their operator licences.
- 12.5 Officers have considered this representation and have reviewed this proposed condition. Officers conclude that because the particular safeguarding training is designed for hackney carriage and private hire drivers and not Operators, officers now recommend the removal of this proposed condition.
- 12.6 However, should Members agree to the recommendations in this report, all ancillary operator staff will now be required to provide a basic DBS check in accordance with best practice and national guidance.

13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 To acknowledge but reject the request to amend the Policy in view of the responders comment and continue with the version of the Policy as approved at the Licensing and Regulation Committee on 6 June 2019. This is not the recommendation of officers.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

[LR520](#) Review of Hackney Carriage and Private Hire Licensing Policy - Phase One
Tip Top Taxis – 6 June 2019

[LR 495](#) - Review of Statement of Licensing Policy with respect to Hackney Carriage
and Private Hire Vehicles, Drivers and Private Hire Operators – consultation
comments – 16 March 2017

[LR 490](#) - Review of Statement of Licensing Policy with respect to Hackney Carriage
and Private Hire Vehicles, Drivers and Private Hire Operators – 19 January 2017

[LR 454](#) - Review of Statement of Licensing Policy with respect to Hackney and
Private Hire Vehicles, Drivers and Private Hire Operators – 8 October 2015

Other Background Documents:-

Report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing.

Institute of Licensing Guidance of determining the suitability of applicants and
licensees in the hackney and private hire trades – April 2018

APPENDICES:

None