

# LICENSING AND REGISTRATION COMMITTEE

08 MARCH 2023

## REPORT OF THE DEPUTY CHIEF EXECUTIVE

### A4. DEVELOPMENT OF A COMPREHENSIVE AND COHESIVE TAXI/PRIVATE HIRE POLICY

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

The Committee has previously been advised that the Council has a range of separate licensing policies in respect of Hackney Carriage and Private Hire licensing. In addition the Committee has been informed that government has issued statutory guidance to Councils to develop a single cohesive policy covering the range of licences concerned.

In order to develop such a cohesive policy it is important that the range of separate policies are reviewed and that areas of Hackney Carriage/Private Hire licensing where the Council has no current licensing policy are examined in undertaking this developmental work. Consultation has been undertaken and research with other Councils initiated. This report sets out the outcome of this consultation and research. It also references a Government consultation on possible revisions to a national good practise guide to licensing authorities.

The pre-consultation questionnaire was available for a period of 8 weeks commencing 14 December 2022. During this time 44 comments were made during the consultation period. These are set out in Appendix A for their comments to be considered prior to any policy being drafted.

The Committee is requested to consider the information in this report and to indicate policy areas it is minded to see included in a new cohesive policy document that can be prepared by Officers.

##### EXECUTIVE SUMMARY

The Committee, at its meeting on 3 November 2022 (minute 134 refers), authorised officers to develop a comprehensive policy statement in relation to the licensing of Taxi and Private Hire Services in the District. The initial element of the work in this regard was to consider the Department for Transport's 2022 consultation draft on a new best practice guide to Councils in respect of this area of licensing, to consult with stakeholders on the content of a new cohesive licensing policy and to research elements of licensing policy adopted by a range of Councils in the region.

As reported to the meeting of the Committee on 3 November, a key impetus towards the development of a cohesive licensing policy in this area has been the statutory taxi and private hire vehicle standards, issued by Government in July 2020. By virtue of Section 177(4) of the Policing and Crime Act 2017, licensing authorities must have regard to the standards issued by

Government.

In referencing licensing policies for Taxi and Private Hire Services, in the statutory Taxi and Private Hire vehicle standards, it reads:

*“The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a ‘fit and proper’ person test, licence conditions and vehicle standards.*

*When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the report by Dame Louise Casey CB of February 2015 on safeguarding failings.”*

Through this report, the Committee is invited to consider the information provided and to indicate to officers its wishes for the content of the cohesive licensing policy. Officers will then draft such a policy with a view to presenting this for consideration at the first meeting of the Committee following the elections to the Council on 4 May 2023.

A presentation will be made at the meeting in respect of the Council’s current separate licensing policies as set out in the ‘Background’ section of this report.

## **RECOMMENDATION(S)**

**It is recommended that the Committee:**

- 1. Considers the content of the report and particularly, (a) the Department for Transport’s 2022 consultation draft on a new best practice guide to Councils in respect of this area of licensing, (b) the outcome of consultation with stakeholders on the content of a new cohesive licensing policy and (c) the information obtained from research of elements of licensing policy adopted by a range of Councils in the region;**
- 2. indicates areas of relevant licensing policy that it considers should be set out in the cohesive licensing policy statement for Hackney Carriage and Private Hire Services being developed by this Council and any further information that should be obtained to support the development of such a cohesive licensing policy;**
- 3. confirms that a draft cohesive licensing policy statement should be submitted to the first meeting of this Committee following the elections to the Council on 4 May 2023; and**
- 4. notes that the development of the cohesive licensing policy statement will involve a further period of consultation and all views received will then be submitted for consideration by the Committee prior to adoption of a finalised licensing policy statement.**

## **REASON(S) FOR THE RECOMMENDATION(S)**

The steps outlined in the recommendations above seek to support the Committee in good decision making in this area of licensing and, in this regard, recognise the legitimate rights of

licensees to be consulted at formative stages of policy development. The development of a cohesive licensing policy reflects the recommendations from the Department for Transport as set out in its 'Statutory Taxi and Private Hire Vehicle Standards' (July 2020).

## **ALTERNATIVE OPTIONS CONSIDERED**

There is no good reason identified to depart from the recommendation to the Council from the Department for Transport review its Taxi Licensing Policy and develop a cohesive statement of licensing policy in this area of licensing.

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

While recognising that the primary and overriding objective of the licensing framework for hackney carriage and private Hire Services must be to protect the public, the proposed comprehensive Taxi and Private Hire Policy would support the following themes from the Council's Corporate Plan 2020-24:

- Delivering High Quality Services: Effective regulation and enforcement
- Community Leadership through partnerships: Law and Order - for a safer community
- Strong Finances and Governance: Effective and positive Governance.

### **LEGAL REQUIREMENTS (including legislation & constitutional powers)**

The legislative framework in which the Council considers applications for Taxi and Private Hire Driver, Vehicle and Operator Licence and renews, suspends or revokes those licences is set out in the relevant provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act). This framework has been amended and supplemented from time to time. In applying that framework, the Council must have regard to the statutory taxi and private hire vehicle standards issued by Government in July 2020. Likewise, it will give due consideration to the Government's guidance to licensing authorities on the exercise of their licensing functions for Taxi and Private Hire Services.

"Having regard" to guidance requires public authorities, in formulating a policy to give considerations the weight of which is proportionate in the circumstances. Given this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.

Within the 1976 Act, there are provisions that permit Councils to attach conditions to the grant of Taxi and Private Hire Driver, Vehicle and Operator licences as it may consider reasonably necessary. This discretion must be relevant to the role of the Council as a licensing authority.

As with all other areas of its activity, a local authority is entitled to adopt policies in relation to taxi and private hire licensing. Policies are an integral part of the decision making process and should be used to inform, guide and provide a valuable aid to the decision makers in assisting them with consistent decision making.

Irrespective of a policy statement, it continues to be the case that each request, review,

application, or case must be considered and decided in its own right and on its own merits taking into account the policy in question. Where departure from a policy of the Council is proposed it should be accompanied by reasons to explain the departure in licensing terms. Officers, in their decision-making on applications, renewals, suspension and revocation situations will apply the policy of the Council.

#### **FINANCE AND OTHER RESOURCE IMPLICATIONS**

The cost of the activity in support of developing the comprehensive Taxi and Private Hire Policy (in terms of production, consultation and publication) will be met from the current service budget.

#### **USE OF RESOURCES AND VALUE FOR MONEY**

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The development of a cohesive policy for this area of licensing will assist in the allocation of resources to achieve the intentions of the policy.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	A cohesive policy will support a shared understanding of the Council's expectations in this area of licensing.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Reporting on the application of the Council's policy is envisaged following its adoption. This will ensure resources can be focussed as policy is developed.

#### **MILESTONES AND DELIVERY**

This report sets out the approximate timescales/milestones for a draft Hackney carriage and Private Hire licensing policy to be adopted.

#### **ASSOCIATED RISKS AND MITIGATION**

By not incorporating the stand-alone policies into one comprehensive policy it may result in drivers and vehicle standards falling below the professional levels expected from members of the public and may have an impact on their safety.

#### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

In accordance with the decisions taken at the 3 November 2022 meeting of this Committee, consultation on a number of areas of Hackney Carriage and Private Hire Licensing commenced on 14 December 2022. A web-page was created for the consultation on the Council's website and emails/newsletters were sent to various stakeholders signposting them to the questionnaire.

The consultation included:

- All licensed Hackney Carriage and Private Hire Drivers
- All vehicle licence holders

- All licensed Private Hire Operators
- All applicants with pending Hackney Carriage/Private Hire applications
- DVSA and ROSPA
- A range of partner organisations such as in health, universities and community groups (including Citizens Advice Tendring, Community Voluntary Service Tendring and Age UK) and business organisations such as the Federation of small businesses and local business associations of Clacton, Frinton and Manningtree.
- Responsible Authorities
- Essex County Council Child Protection Unit
- Essex Police
- Institute of Licensing
- A range of licence holders of local premises licences (including pubs, off-licences, late night refreshment premises and night time economy)

The outcome of the consultation is set out at Appendix A to this report.

The research into Licensing Policies for Hackney Carriage and Private Hire Services in place at other Councils in the Region is set out at Appendix B to this report.

The following Council Units or Officers and/or other organisations have been consulted in preparing this report:

Management Team

The comments received have been taken into account in the preparation of the report.

## **EQUALITIES**

In developing a new cohesive Taxi and Private Hire Licensing Policy Statement, the Council will have due regard to its public sector equality duty to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

## **SOCIAL VALUE CONSIDERATIONS**

Well regulated activities should, of themselves, contribute to the overall economic and social wellbeing of the District. The adoption of a cohesive Hackney Carriage and Private Hire Licensing Policy seeks to support well regulated licensable activities.

## **IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030**

There are no environmental implications arising directly from the content of this report.

## **OTHER RELEVANT IMPLICATIONS**

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

<b>Crime and Disorder</b>	In undertaking these licensing functions the Council will have regard to the duty upon it by virtue of section 17 of the Crime and Disorder Act 1998 (duty to take into account the prevention of Crime and Disorder).
<b>Health Inequalities</b>	There are no direct implications arising from the proposals set out in this report.
<b>Area or Ward affected</b>	All

#### ANY OTHER RELEVANT INFORMATION

Below are tables that quantify information in relation to the vehicles licensed by this Council as Taxis or Private Hire Vehicles.

Saloon & Estates (Normal Vehicles)		
Under 5 Years	5-10 Years	Over 10 Years
45	144	29
Electric Vehicles		
Under 5 Years	5-10 Years	Over 10 Years
2	2	0
Purpose Built London Style Taxi and Wheelchair Accessible Vehicles		
Under 5 Years	5-10 Years	Over 10 Years
0	3	2
Overall Vehicles Total		
Under 5 Years	5-10 Years	Over 10 Years
47	149	31

### PART 3 – SUPPORTING INFORMATION

#### BACKGROUND

The Department for Transport issued best practice guidance to Councils in 2006 to assist with their role as a regulator in this sector. In 2022, the Department undertook consultation on possible revisions to that best practice guidance. The consultation concluded on 20 June 2022 and the Department for Transport website indicated that it is analysing the feedback received.

The consultation issued by the Department for Transport covered subject areas of:

- Driver licensing – proficiency
- Driver licensing – vocational training and assessment
- Vehicle licensing – tinted windows
- Vehicle licensing – identification and signage
- Vehicle licensing – age limits
- Vehicle and Driver licensing - accessibility
- Point-based enforcement systems
- Vehicle condition (daily) checks
- Vehicle safety ratings
- Seating capacity

Obtaining details of vehicle tests, including failures  
Taxi rank provision reviews every 3 years  
Sample notices between licensed driver and passenger  
Staying safe guidance for licensed drivers  
Assessing hackney carriage quantity controls

A link to the full consultation is available here:

[Taxi and private hire vehicle: best practice guidance to assist licensing authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/taxi-and-private-hire-vehicle-best-practice-guidance-to-assist-licensing-authorities)

The consultation undertaken locally, set out in the “Outcome of Consultation and Engagement” section of this report, utilised the 2022 Department of Transport consultation on its best practice guidance to Councils to inform elements of the questions posed.

The Council has, from time to time, adopted a number of stand-alone policies in respect of Taxi and Private Hire Services. These include:

### **Taxi/Private Hire Driver Suitability / Knowledge Test**

The current suitability and knowledge test for all new drivers was endorsed by the Licensing Committee at its meeting of the 1 November 2011 and went live in April 2012. This was subsequently reviewed in December 2014.

Applicants have to successfully complete a suitability test prior to being handed a driver application form to complete and submit. The suitability test covers numeracy, literacy, map reading, dates, and times.

Once an applicant has submitted the main application form, they have to complete successfully a knowledge test. The suitability test covers numeracy, literacy, map reading, dates, and times. The knowledge test covers road signage, highway code, routes of roads within the Tendring area, places of interest and local knowledge, and conditions, Law and Equality.

All of the above criteria have been in place since April 2012 and it would be prudent to review their effectiveness, proportionality and reasonableness in relation to the Council’s responsibilities to ensure that all applicants for taxi and private hire drivers licences are “fit and proper persons” to be granted such a licence.

The Licensing Committee introduced these tests in order that the public can have full confidence in licensed Tendring drivers and that we have a respected, professional and prosperous taxi trade in Tendring.

### **Maximum Vehicle Age Limits for Licensing Taxi and Private Hire Vehicles**

The Council’s upper age limit policy in relation to taxi and private hire vehicles was determined at a meeting of the Licensing Committee held on the 9 April 2014. Minute 22 refers. A review of this policy was then agreed on 30 January 2019. Minute 72 refers to include Electric Vehicles.

The policy adopted a maximum upper age limit of 12 years for saloon, estate and MPV (people carrier) type vehicles, Electric Vehicles are licensed until they are 13 years old and purpose built London style Taxi and Wheelchair Accessible Vehicles are licensed until they are 15 years old.

The reasoning for the 13 year limit for Electric Vehicle and 15 year limit for purpose built London style Taxi and Wheelchair Accessible Vehicles was to act as an incentive to encourage the trade to consider purchasing these types of vehicles.

These incentives were to help contribute towards reducing greenhouse gas emission and air pollution on our roads by purchasing an Electric Vehicle and to off-set the cost of a wheelchair accessible vehicle as it is considerably higher than that of an ordinary saloon or MPV type vehicle.

The Miscellaneous Licensing Sub-Committee has submitted a request for the Licensing Committee to review the Council's policy on the maximum upper age limit that Taxi and Private Hire vehicles can be licensed for.

All vehicles are subject to a yearly inspection by Licensing Officers once the vehicle is 10 years old.

In the 'Any Other Relevant Information' section of the report are age ranges for licensed vehicles. In reviewing this area of policy, the Committee's attention is drawn to that data.

### **Other Stand alone policies that have been adopted over time in respect of Taxi and Private Hire Services.**

These include:

Taxi and Private Hire Drivers Assessment.

Medical Examination – Due on every application and once 65 years old, every year.

Passenger Assisted Transport (PATs) course or a Business Technology Education Council (BTEC) award in transporting passengers by hackney carriage (Taxi) or Private Hire.

CSE Child Sexual Exploitation Training (A number of documents have been sent to licensed drivers as part of this. Training is proposed and was put on hold due to COVID-19 pandemic but will perform part of the overall policy).

Applicants must have held a full DVLA licence for at least 4 years for a new application.

Disclosure and Barring Service (DBS) Enhanced Check.

Drivers dress code (2014).

Vehicle guidelines to ascertain seating capacity including boot button release.

Advertising door signs (2014).

The policy which restricted more general advertising on doors of taxis and private hire vehicles was amended and relaxed by the Council's Licensing Committee at its meeting of the 29 July 2014.

Warning Protocol for Hackney Carriage Drivers/Vehicles Owners and Operators (2009).

If drivers, operators or vehicle owners receive three written warnings for clear and provable breaches of conditions and/or traffic offence within a rolling 12 month period they are to be brought before the Miscellaneous Licensing Sub Committee for



Members to determine whether they are fit and proper and the action (if any) that should be taken which could include suspension or revocation of their licences.

To assist the Committee, at the meeting, there will be explanations of these separate policies.

#### **PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**

Licensing and Registration Committee – 3 November 2022, Minute 134

Records show that the various stand-alone policies were first implemented as early as 1975 although these will have been amended/updated since then.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

None.

#### **APPENDICES**

**Appendix A - Taxi Policy Pre-Consultation Survey Results and summarised comments.  
Appendix B - Research on Taxis for Local Authorities near Tendring.**

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