

LICENSING AND REGISTRATION COMMITTEE

24 JULY 2023

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A2. DEVELOPMENT OF A COMPREHENSIVE AND COHESIVE TAXI/PRIVATE HIRE POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To submit to the Committee the draft Taxi / Private Hire Policy, set out at Appendix A to this report and to seek authority for the draft policy to be circulated to key stakeholders and interested parties for consultation purposes.

EXECUTIVE SUMMARY

The Committee, at its meeting on 08 March 2023 (minute 142 refers), authorised officers to develop a draft comprehensive policy 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 best practice guide to Councils in respect of this area of licensing, the 2022 consultation draft on an updated best practice guide and any amendments the Committee suggested at the 8 March 2023 meeting. The Committee on 8 March itself considered comments received to an initial consultation exercise undertaken between December 2022 to February 2023.

As reported to the meeting of the Committee on 8 March, 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, and the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022.

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."

RECOMMENDATION(S)

It is recommended that the Committee authorises, if satisfied, that the draft Taxi / Private Hire Policy be circulated to the Council's stakeholders and interested parties in respect of this area of licensing for consultation purposes and that the outcome of this consultation be considered at a future meeting of the Committee prior to adoption of a finalised Taxi / Private Hire Policy.

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 proposed consultation is on a draft policy and builds upon an earlier consultation prior to the development of the draft policy that was itself considered on 8 March 2023 and which the Committee's decision at that meeting in respect of proposals to be incorporated into the draft policy. 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. In so far as the draft policy sets out how the Council, as licensing authority, will exercise its discretion, the alternatives were considered at the 8 March meeting of the Committee. The Committee at this meeting and following the proposed consultation on the draft policy may determine alternatives to the use to that set out in the draft policy.

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

The outcome of initial consultation on this matter was the subject of a report to this Committee on 8 March 2023. This outcome assisted the Committee in its directions to officers in relation to the development of the draft policy now submitted.

It is recommended that following consideration of the submitted draft policy, public consultation be undertaken over a minimum of an eight week period. The consultation itself will encompass and engage a range of consultees such as:

- 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, School Contracts and Trading Standards.
- 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 policy will also be available to view, download and comment on through the Council's website.

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:

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

Crime and Disorder	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).
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

ANY OTHER RELEVANT INFORMATION

None

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

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

The Committee at its meeting on 8 March 2023 agreed a number of directions to officers which have now been incorporated into the draft comprehensive and cohesive policy now submitted. The Committee is invited to consider this and determine if any amendments should be made prior to submitting the draft policy for a further process of consultation.

Prior to further consultation, the Committee are referred to three areas of the draft policy for further discussion.

**Livery / Identification of a Hackney Carriage / Private Hire Vehicle.
Further information can be referred to on page 21 of the draft policy in appendix A.**

**Accessibility of a licensed vehicle.
Further information can be referred to on page 22/23 of the draft policy in appendix A.**

**Enforcement and Compliance.
Currently using a warning three step system, further information can be referred to on pages 34-36 of the draft policy in appendix A. Consideration of moving this towards a points based enforcement system.**

The Committee may wish to consider and ask questions during its consultation around these areas.

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

Licensing and Registration Committee – 8 March 2023, Minute 142
Licensing and Registration Committee – 3 November 2022, Minute 134

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None.

APPENDICES

Appendix A - Taxi / Private Hire Draft Policy

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