

LICENSING AND REGISTRATION COMMITTEE

16 OCTOBER 2023

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A1 DEVELOPMENT OF A COMPREHENSIVE AND COHESIVE TAXI/PRIVATE HIRE POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report is submitted for the Committee's consideration a proposed Taxi / Private Hire Policy (at Appendix A to this report). The proposed Statement of Taxi / Private Hire policy is submitted following a recent 8 week period of consultation on the Statement. Prior to that there has been an extensive programme of activity to develop the draft Policy and engage with stakeholders. Hackney Carriage and Private Hire Policy is a matter for Cabinet ultimately and so liaison has also taken place with the Portfolio Holder for Planning and Housing (who has licensing policy in his portfolio).

EXECUTIVE SUMMARY

The Committee, at its meeting on 24 July 2023, authorised officers to circulate the draft Statement of Taxi / Private Hire Policy to 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 the finalised Taxi / Private Hire Policy by Cabinet.

Prior to the 24 July 2023 meeting, the initial element of the work in regard to the development of the policy 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. Further consultation on the policy took place between July and September 2023 and the survey results are attached to the report.

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."

If satisfied, the Committee is invited to recommend the proposed Statement of Taxi / Private Hire Policy for adoption by Cabinet at its meeting on 10 November 2023.

RECOMMENDATION(S)

It is recommended that the Committee:

- a) Considers the outcome of the consultation undertaken on a Statement of Taxi / Private Hire Policy as set out in this report;**
- b) considers the report and, if satisfied, recommend to Cabinet that the draft Statement of Taxi / Private Hire Policy set out at Appendix A to this report be adopted for the period 2023-2028 (including those changes identified in this report and the separate sheet as part of Appendix A headed "Proposed amendments to Taxi Policy following the July 2023 meeting of the Committee");**
- c) seeks the authority from Cabinet for Officers to develop and implement a programme to bring the policy positions in the approved Statement (in (b) above) into operation over the coming months;**
- d) endorses the approach to Disclosure and Barring Service Disclosures for Hackney Carriage and Private Hire Drivers through the Council's existing contractor for staffing disclosures while more long term arrangements are investigated;**
- e) invites officers to examine the fee arrangements for Hackney Carriage and Private Hire Drivers and report thereon to a future meeting of the Committee with a view to assessing the impact on new applicants of the combined cost to them of the licence fee and training/tests for driving standards, child sexual exploitation prevention, topographical knowledge, medical and suitability and**
- f) notes that a review of the content of the topographical etc. test of new applicants for Hackney Carriage and Private Hire Driver Licences has commenced and will be the subject of a report to a future meeting of the Committee.**

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 existing licensees to continue to hold their licences and the role of the Council in undertaking its regulatory role in relation to Hackney Carriage and Private Hire services. The proposed draft policy builds upon two consultation periods to the development of the draft policy that was itself considered on 24 July 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.

Due regard has also been given to the emerging themes for the Corporate Plan 2024-28 which were the subject of consultation across the period of development of the draft policy set out in this report and its attachments.

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.

In submitting this report for consideration by the Committee, there will be a short presentation as part of the introduction to it, of the various statutory powers that form the basis on which the regulation of Hackney Carriage and Private Hire Services is built.

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.

In the course of the development of the Policy, notice was served on the Council by the Disclosure and Barring Service that the Council's Registered Body Status was to be withdrawn as there was less than 100 disclosures sought directly by the Council each year. These direct disclosures relate solely to Hackney Carriage and Private Hire Drivers. Staff disclosures are obtained through a private company contracted by the Council through the Partnerships Directorate. The withdrawal of the Registered Body status means that the Council will need to secure Disclosure checks through a third party for Hackney Carriage and Private Hire Drivers. As an interim position, while the market is explored, it is proposed to use the Council's existing contractor as the third party. This is likely to incur additional costs. The intention is to assess the impact of this additional cost in time for the review of licence fees and consideration of those fees by the Committee early in 2024.

The review of licence fees provides an opportunity to assess the impact on new Hackney Carriage and Private Hire Drivers of the total cost of submitting an application for a licence. This total cost includes not just the licence fee, but also training/tests for driving standards, child sexual exploitation prevention, topographical knowledge, medical and suitability.

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. It is recognised that it will not be feasible or expedient to introduce all of the policy changes identified in the draft policy as soon as it becomes effective following the decision of Cabinet. As such a transitional programme is proposed to be developed by Officers in the months following that approval.

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 Committee is invited to consider the content of this report and the proposed revised draft taxi and private hire policy set out at Appendix A. This section of the report sets out the steps taken since the meeting of the Committee on 24 July 2023; including the consultation undertaken in respect of the draft policy.

Public Consultation on the draft taxi and private hire policy for the District commenced on 26 July 2023. A page was created for the consultation on the Council's website on 26 July and a public notice was displayed outside of the front of the Town Hall and the Council's Offices at Pier Avenue, Clacton-on-Sea. A post on the council's social media page was also created advertising the consultation.

Consultation responses were asked for over a period of 8 weeks ending on 20 September 2023.

The below were written to inviting them to comment on the draft policy:

- 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)

In addition to the consultation letters, the Licensing Team visited the taxi ranks and offices within the District handing out copies of the policy and consultation survey to encourage the trade to voice their opinions.

An additional reminder letter was sent on 4 September 2023 to the following partners:

- 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 meeting also took place on 11 September 2023 between Members of the Licensing and Registration Committee, Licensing Officers and representatives of the trade. This meeting gave an opportunity for the policy to be discussed and any issues/concerns raised.

There have been 27 replies to the consultation from trade and 2 from the general public. The results of these can be seen in Appendix C.

Following the consultation, the Committee are asked to consider the proposed policy set out at Appendix A (including the identified changes sheet included within Appendix A). These changes address the following areas:

- Child Sexual Exploitation and Vulnerable Persons Safeguarding training – the proposal to introduce this as a standard requirement for applicants/existing licensees.
- Enforcement – To replace the existing warning letter approach with a Points Based System (set out at Appendix B).
- Length of time applicants to have held a full DVLA licence – to consider changing the minimum time from 4 years at present to 3 years for Driver licence applicants/licensees. The minimum duration must be of consecutive years at the time of application and duration of licence.
- Vehicle Licensing – Identity and Signage. This is to consider not adopting a standard vehicle colour for new Hackney Carriages (and otherwise upon replacement of their existing vehicle). However, the Committee is invited to determine whether a requirement for a standard white roof sign that is no smaller than 30” in length and shall bear the words “Licensed by Tendring District Council – TAXI” on the front face of the sign (for new vehicles and upon replacement of existing licensed vehicles) and a front facing vehicle licence plate specified by the Council.
- Vehicle Licensing – Minimum and Maximum age limits. The proposal is to do away with a minimum age limit for vehicles and to adopt a single maximum age limit of 15 years. The maximum age shall apply from the date of first registration of the vehicle with the DVLA. For vehicles over 10 years of age there shall be a third mechanical test (in addition to the annual vehicle licence test). It is also proposed to introduce a requirement for new vehicles to be licensed to meet the Euro 6 emission standards or better. The Committee’s attention is drawn to the next set of emission standards (Euro 7) which is anticipated to be effective for new cars from 2025. A review of the policy position would be appropriate following the change of emission standards.
- Required in-cab CCTV – to retain the current position where installation is voluntary and subject to authorisation from the Council.

In respect of the Topographical/Knowledge Test , the Committee will be aware that a review of this has commenced and will be the subject of a further report to a future meeting.

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 Committee is formally requested to agree the draft taxi and private hire policy in relation to the licensing of Taxi and Private Hire Services. The policy statement sets out in one place the Council's approach to its licensing functions, within the legislative framework, and ensures that the various elements of the policy support the broad public and consumer protection role of the licensing authority.

At its meeting on 24 July 2023, this Committee approved the necessary steps to be undertaken to enable a proposed draft taxi and private hire policy to be consulted on. This would then enable any recommendations to the draft policy to be submitted to the Cabinet meeting on 10 November 2023.

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

Licensing and Registration Committee – 24 July 2023
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 (including Proposed amendments to Taxi Policy following the July 2023 meeting of the Committee) – in the policy the significant changes are identified in red coloured type
Appendix B – Proposed Enforcement Points Based System
Appendix C – Consultation and engagement Results

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