

CABINET

10 NOVEMBER 2023

REPORT OF PORTFOLIO HOLDER FOR HOUSING & PLANNING

A.6 CONSIDERATION/ADOPTION OF A COMPREHENSIVE AND COHESIVE TAXI/PRIVATE HIRE POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To request that Cabinet considers and, if satisfied, adopts a comprehensive and cohesive taxi and private hire policy recommended to it by the Licensing and Registration Committee on 16 October 2023. This proposed Taxi / Private Hire Policy is set out at Appendix A to this report.

The proposed Taxi / Private Hire Policy is submitted following a recent 8 week period of consultation on the Statement and consideration of the findings from that consultation by the Licensing and Registration Committee. Prior to that consultation, 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 the Council's Executive (Cabinet) and so the Portfolio Holder for Planning and Housing (who has licensing policy in his portfolio) has been engaged in the process leading to this point.

EXECUTIVE SUMMARY

The Licensing and Registration Committee, at its meeting on 16 October 2023, approved the submission of the Statement of Taxi / Private Hire Policy set out at Appendix A to this report for the consideration and adoption by Cabinet following the outcome of consultation. Set out below is a brief resume of the process of the review at this Council leading to this point.

The initial element of the work in regard to the development of the Taxi / Private Hire Policy was to consider the Department for Transport's best practice guide to Councils in respect of this area of licensing. The most recent issued version of that guidance dates to 2010. However, in 2022, Government issued its own consultation on possible revisions to that best practice guidance. This consultation documentation was also reviewed in the drafting of the Taxi / Private Hire Policy developed at this Council. The Government has not issued its response to the consultation which concluded on 22 June 2022. If, and when, a new Government best practice guidance is issued, it would be appropriate to review this Council's Taxi / Private Hire Policy.

The Licensing and Registration Committee on 8 March 2023 itself considered comments received to an initial consultation exercise undertaken between December 2022 to February 2023. The focus of that consultation was on potential measures identified in the Government's national consultation on best practice and considering the position locally on the questions raised in the national consultation. It also looked at local policies.

Following the March 2023 meeting, and based on the outcome of that meeting, a draft Taxi / Private Hire Policy was developed and submitted to the Committee's meeting 24 July 2023.

That Committee meeting then authorised consultation on the draft Taxi / Private Hire Policy. That consultation took place between July and September 2023.

The outcome of that most recent consultation was considered by the Licensing and Registration Committee on 16 October 2023. It was mindful of that consultation outcome that the finalised version of the Taxi / Private Hire Policy was approved for submission to Cabinet.

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 requirements of 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:

- (1) As proposed by the Licensing and Registration Committee, Cabinet:**
 - a) Approves the final draft statement of Taxi / Private Hire Policy, as set out in Appendix A, for adoption and publication.**
 - b) Authorises Officers to develop (over the coming months) and implement a programme to bring the policy positions in the approved Statement references in a) above into operation; and**
- (2) Authorises Officers to make minor amendments to the Taxi / Private Hire Policy to take account of such matters as legislative changes and Government Guidance on taxi and private hire licensing.**

REASON(S) FOR THE RECOMMENDATION(S)

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). The steps outlined in the recommendations above seek to support the Cabinet 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. As such, the Council has sought to engage with stakeholders at key formative stages of the development of this Policy (now submitted).

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 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, 24 July and 16 October 2023 meetings of the Licensing and Registration Committee.

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 / 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.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Taxi / Private Hire Policy submitted to Cabinet by the Licensing and Registration Committee (at its meeting of the 16 October 2023) followed public consultation across July-September 2023. As part of that public consultation, the below were written to inviting them to comment on the draft policy:

- All licenced Hackney Carriage and Private Hire Drivers
- All vehicle licence holders
- All licenced 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.

Using this link, the outcome of the consultation leading to the recommendation now being considered by Cabinet can be reviewed:

[Licensing and Registration Committee – 16 October 2023 \(Minute 19\)](#)

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES/NO	If Yes, indicate which by which criteria it is a Key Decision	<input checked="" type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	14 September 2023- Adoption of Taxi (Hackney Carriage & Private Hire) Policy

The primary pieces of legislation for taxi and private hire matters are set out in the Town Police Clauses Act 1847 ('the 1847 Act') and the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act').

Section 37 of the 1847 Act sets out the power to licence 'vehicles' ('wheeled carriages') as Taxis (Hackney Carriages). Section 40 of the 1847 Act requires an application for a Taxi vehicle licence (a signed requisition). Section 46 of the 1847 Act requires drivers of Taxis to have a licence (from the same body that licences the Taxi vehicle). Section 50 of the 1847 Act establishes the power to suspend or revoke a Taxi driver or vehicle licence. Section 47 of the 1976 Act permits the Council to attach conditions to Taxi Vehicle Licence.

Section 46 of the 1976 Act states that vehicles used for private hire need a licence as do those who drive them and who operate them. Section 48 of the 1976 Act provides a power to issue a private hire vehicle licence to suitable, safe, comfortable and insured vehicles (as long as by design and appearance they are distinct from Taxis). Section 48 also provides a power to attach conditions to a private hire vehicle licence.

Sections 51 (taxi drivers) and 59 (private hire drivers) states that licences can be granted if the applicants are fit and proper, have held a Full DVLA (or equivalent) driving licence for at least 12 months and is not disqualified under immigration rules.

By virtue of Section 55 of the 1976 Act private hire operator licences can be issued if the applicants are fit and proper and is not disqualified under immigration rules.

Section 47 of the 1976 Act empowers a Council to require applicants for taxi and private hire vehicle, driver and operator licences to submit information it reasonably considers necessary to determine the application. For drivers, this provision can include medical assessment,

knowledge test and suitability test results, criminal record/caution details held by the disclosure and barring service and test results from driving assessments and child sexual exploitation awareness.

Private hire operators are those who allocate private hire vehicles and drivers in response to pre-booked journey bookings made with the operators by the public/businesses. Taxis undertaking pre-booked journeys do not need to have the booking made through an operator.

The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

The report sets out the relevant provisions. Any and all decisions concerning the implementation of the policy will follow the Council's decision making protocols; including those concerning publication of those decisions.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The cost of the activity in support of developing the comprehensive Taxi / Private Hire Policy (in terms of production, 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 (for roles with the Council) are obtained through a private company contracted by the Council through the Partnerships Directorate. The withdrawal of the Registered Body status in January 2024 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 Licensing and Registration 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.

The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

There are no further comments over and above those set out elsewhere in this report.

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. The adoption of a comprehensive and cohesive Taxi / Private Hire Policy is intended to mitigate against that risk.

EQUALITY IMPLICATIONS

In developing a new cohesive Taxi / Private Hire Policy, 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 CONSIDERATIONS OR 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

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>The links below provide the opportunity to explore further the development of the Taxi / Private Hire Policy now submitted for approval:</p> <p><u>Licensing and Registration Committee – 3 November 2022, Minute 134</u></p> <p>The Committee authorised Officers to develop a comprehensive policy statement in relation to the licensing of taxi and private hire services in the District. A pre-consultation questionnaire was published for a period of eight weeks commencing 14 December 2022.</p> <p><u>Licensing and Registration Committee – 8 March 2023, Minute 142</u></p> <p>The Committee agreed the following:</p> <ol style="list-style-type: none"> 1. a draft cohesive licensing policy statement be submitted to the first meeting of this Committee following the elections to the Council on 4 May 2023; 2. it 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 this Committee prior to adoption of a finalised licensing policy statement; and 3. Officers be requested to consider the implications arising from the physical capabilities of Hackney Carriage/Private Hire drivers when considering emergency evacuation or providing emergency assistance to passengers. <p><u>Licensing and Registration Committee – 24 July 2023, Minute 9</u></p> <p>The Committee agreed 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, including the questions relating to livery and the introduction of a points based enforcement system, and that the outcome of the consultation be considered at a future meeting of the Committee prior to its adoption of a finalised Taxi/Private Hire Policy.</p> <p><u>Licensing and Registration Committee – 16 October 2023 (Minute 19)</u></p> <p>The Committee considered the outcome of the consultation which was undertaken over a period of 8 weeks ending on 20 September 2023 and resolved to agree the draft Taxi / Private Hire Policy set out at Appendix A to this report be adopted for the period 2023-2028.</p>

This report can be used to review the outcome of the consultation leading to the recommendation now being considered by Cabinet.

Cabinet are formally requested to agree and adopt the Taxi / 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 the Licensing and Registration Committee at its meeting on 16 October 2023, discussed and agreed the draft policy for the next 5 years.

PREVIOUS RELEVANT DECISIONS

Licensing and Registration Committee decisions as below:

3 November 2022 – Minute 134 refers

8 March 2023 – Minute 142 refers

24 July 2023 – Minute 9 refers

16 October 2023 – Minute 19 refers

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Guidance – Government's taxi and private hire vehicle licensing: best practice

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

Closed consultation – Government's taxi and private hire vehicle best practice guidance

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

APPENDICES

Appendix A - Taxi / Private Hire Policy recommended for adoption by the Licensing and Registration Committee.

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