

LICENSING AND REGISTRATION COMMITTEE

31 JANUARY 2024

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A.4 GOVERNMENT BEST PRACTICE GUIDANCE TO LICENSING AUTHORITIES UPDATE – THIS COUNCIL’S TAXI/PRIVATE HIRE LICENSING POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This item is to advise the Committee that Cabinet approved the comprehensive and cohesive licensing policy for Taxi and Private Hire Services recommended by this Committee and to advise it that, since the adoption of that licensing policy, the Government had issued updated best practice guidance for this area of licensing. As such, through this report, the Committee is advised of those elements of the updated best practice guidance that raise matters concerning this Council’s policy and the implementation of it. Accordingly, the Committee is provided with this opportunity to review these matters and determine whether it is content with the proposed actions on those matters set out in this report. .

This report also enables the Committee to receive an update on the implementation programme for of the Taxi/Private Hire Licensing Policy as prepared by Officer in accordance with the decision of Cabinet. This implementation plan is set out at Appendix B.

EXECUTIVE SUMMARY

The Committee, at its meeting on 16 October 2023, authorised the new Taxi/Private Hire Licensing Policy to be submitted to Cabinet for adoption. The licensing Policy submitted was approved and adopted by Cabinet on 10 November 2023 and remains in effect for five years (subject to review in response to changes in regulation or guidance).

The decision of Cabinet on the Taxi/Private Hire Licensing Policy (at Minute 51 of Cabinet’s meeting on 10 November 2023) was as follows:

- a) *approves the final draft statement of Taxi/Private Hire Policy, as set out in Appendix A to item A.6 of the Report of the Portfolio Holder for Housing & Planning, 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 into operation; and*
- c) *authorises Officers to make minor amendments to the Taxi/Private Hire Policy in order to take account of such matters as legislative changes and Government Guidance on taxi and private hire licensing.*

Since the decision referred to, the Department for Transport issued its new Best Practice Guidance on 17 November 2023. This new guidance is available using the following link:

<https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance/outcome/taxi-and-private-hire-vehicle-best-practice-guidance-government-response>

The Council, in preparing its Taxi/Private Hire Licensing Policy, had regard to a consultation by Government on an updated Best Practice Guidance. However, as referred to, Government had not issued its response to the consultation (and the new Best Practice Guidance) until after this Council had approved its new Policy.

Three matters, (i) daily licensed vehicle checks, (ii) age policy for licensed vehicles (iii) the review period for Taxi Ranks and (iv) penalty point schemes for licensed drivers and operators are highlighted as matters this Committee's view would be greatly appreciated (prior to any decisions (by Officers/Cabinet) in respect of those matters.

RECOMMENDATION(S)

- (a) **It is recommended that the Committee receives the report and considers the approach set out in Part 3 (Background) section of (and Appendix B to) this report to the following matters identified in the recently updated published Government Best Practice Guidance:**
- (i) **Daily licensed vehicle checks;**
 - (ii) **Age policy for licensed vehicles;**
 - (iii) **Review period for Taxi Ranks;**
 - (iv) **Penalty Point Scheme; and**
- (b) **That, if satisfied, record that the Committee agrees to the course of action set out in Part 3 (Background) section of this report to the matters referenced above and otherwise agrees to the implementation programme for the Taxi/Private Hire Licensing Policy as set out at Appendix A to this report.**

REASON(S) FOR THE RECOMMENDATION(S)

The recommendations set out above seek to support Officers and the Committee in good decision making in this area of licensing and, in this regard, seek the views of the Committee prior to decisions of Officers/Cabinet on the matters covered in this report.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

While recognising that the primary and overriding objective of the licensing framework for hackney carriage (“taxi”) and private hire services must be to protect the public, the recently approved comprehensive Taxi/Private Hire Policy would support the following themes from the Council's Corporate Plan 2024-28:

- **Pride in our area and services to residents**
- **working with Partners to improve quality of life**
- **Promoting our heritage offer, attracting visitors and encouraging them to stay longer**

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The legislative framework in which the Council considers applications for Taxi and Private Hire Driver, Vehicle and Operator Licences 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 the new guidance 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 the implementation of the recently approved comprehensive Taxi/Private Hire Policy 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 cohesive policy for this area of licensing seeks to ensure the allocation of resources to required policy positions of the Council (having had regard to new best practice guidance).
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	The whole purpose of this report is to support informed decision-making having regard to the recently issued new Government best practice guidance.

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 implementation of the Council's policy will take place to support good resource management.
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MILESTONES AND DELIVERY

This Taxi/Private Hire Licensing Policy was approved by Cabinet on the 10 November 2023 and remains in effect for a five-year period. In approving the policy, Cabinet also authorised Officers to develop (over the months following), and implement, a programme to bring the policy positions in the approved policy into operation.

This report provides details of the implementation programme developed by Officers.

The Policy will be reviewed at the end of the five-year period but may also be subject to review in response to changes in regulation or guidance or other relevant significant issues that necessitate a review of Policy. As stated earlier in this report, the publication by Government of new Best Practice Guidance for licensing authorities in respect of this area of licensing is the first such prompt to the Council to review its own policy.

The Implementation Plan for the Taxi/Private Hire Licensing Policy is set out at Appendix B and, itself, sets out key milestones in that process.

ASSOCIATED RISKS AND MITIGATION

To not undertake a review of the Council's adopted policy position in respect of Taxi/Private Hire Licensing following the issuing of the Government's new Best Practice Guidance for licensing authorities in this area of licensing would put the Council at risk of challenge solely on the basis that the Council had not considered that new Best Practice Guidance.

EQUALITIES

In reviewing its Taxi/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.

There is nothing in respect of the proposals for implementation plan for the Taxi and Private Hire Licensing Policy (Appendix A) or in proposals set out in Part 3 (Background) section of this report that is considered to adversely impact on individuals/groups with particular protected characteristics.

SOCIAL VALUE CONSIDERATIONS

Well-regulated activities should, of themselves, contribute to the overall economic and social wellbeing of the District. The cohesive Taxi 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
<p>The Committee, at its meeting on 16 October 2023, recommended the new Taxi/Private Hire Licensing Policy to Cabinet. This was approved and adopted by Cabinet on 10 November 2023 and remain in effect for five years but may be subject to review in response to changes in regulation or guidance. Cabinet also authorised officers to adopt a programme of implementation for the new policy.</p> <p>Since the decision referred to, the Department for Transport have issued a further update to its Best Practice Guidance on 17 November 2023. This new Best Practice Guidance is available using the following link:</p> <p>https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance/outcome/taxi-and-private-hire-vehicle-best-practice-guidance-government-response</p> <p>Officers have reviewed the Government’s new Best Practice Guidance and below identifies a number of matters where there may be a difference between the Council’s own policy and the Government’s Best Practice Guidance:</p> <hr/> <p>(i) Daily licensed vehicle checks; Section 24.4 of the Taxi/Private Hire Licensing Policy – Routine Daily Vehicle Condition Checks</p> <p>The Government’s response to the consultation includes the following –</p> <p><i>“Given the safety benefits and the relative ease with which these checks can be completed the recommendation is that such checks are made before the vehicle is driven for hire. It is noted that many of the checks should be made by all motorists every time a vehicle is driven...”</i></p>

The **Council's own policy** includes the following:

"The licensed driver driving the vehicle is responsible for its condition while in use. Drivers are therefore responsible for carrying out daily routine vehicle inspections with a walkaround check. Checks must include lights, tyres, wipers, mirrors, seatbelts and taxi plates to ensure the safety of the vehicle and carrying passengers."

Currently, the Council does not provide a form for the routine daily vehicle condition checks and, given the Government's response to its consultation (including issuing of an updated checklist), it is **proposed (i) that the checksheet at Appendix B to this report be adopted as this Council's requirement for checks on licensed vehicles. This will form part of the implementation plan of the Taxi/Private Hire Policy and the implementation plan will be updated to reflect the new checksheet's introduction.**

**(ii) Age policy for licensed vehicles;
Section 26.0 of the Taxi/Private Hire Licensing Policy –
Type of Vehicle and Age.**

The **Government's response** to the consultation includes the following –

"Licensing authorities should not refuse to license a vehicle purely because it has reached a specified age."

The **Council's own policy** includes the following:

"Vehicle will only be licensed until they are (15) fifteen years old, from the date of first vehicle registration in accordance with the Vehicle log book."

As such, in implementing the Policy, it is **proposed (ii)(a) that the 15-year age limit in the Council's own policy be deleted.**

The Council has a requirement for licensed vehicles to meet, as a minimum, the Euro 6 emission standard (as applicable for petrol and diesel engines as relevant).

Granting of new vehicles must meet the minimum requirements of Euro 6 Emissions standards. The Euro 6 standard (for most new registrations) was 1 September 2015 (8.5 years ago at the time of this report). The comparable date for the previous Euro 5 standard was 1 January 2011 (12 years ago at the time of this report) and for Euro 5 it was 1 January 2006 (17 years ago). As such, it is **proposed (ii)(b) that the Euro 6 standard apply to all NEW applications for a vehicle licence and, until 1 January 2026 renewals of vehicles that currently achieve Euro 5 emission standards be permitted (15 years after the implementation date for new registration vehicles).**

**(iii) Review period for Taxi Ranks;
Section 36.2 of the Taxi/Private Hire Licensing Policy –
Taxi Rank Provisions**

The **Government's response** to the consultation includes the following –

"The [Government] recommends that taxi rank provision is considered at least every 5 years and, where possible for consideration in formulating local transport plans."

The **Council's own policy** includes the following:

"Provisions are reviewed every three years in consultation with Essex County Council Highways as the majority of roads with taxi ranks are adopted by Essex County Council."

In view of the fact that a review of Taxi Ranks has not been conducted in the recent past, it is proposed that a review be undertaken in the lifetime of the Council's current policy (2023-2028). A second review utilising a three-year review timeframe would be a matter for the next version of the Policy and, as such, no change is proposed at this stage. However, as **proposed (iii) the duration between reviews of Taxi Ranks can be considered as a part of the development of that next version of the Policy.**

(iv) Penalty Point Scheme

Section 41.1 of the Taxi/Private Hire Licensing Policy – Penalty Point System

The **Government's response** to the consultation includes the following –

"It is [...] appropriate that details of infringements should remain on the record from the date of the incident for at least 3 years for drivers and 5 years for private hire vehicle operators, regardless of the length that an individual licence may be issued for, so that a reasonable assessment of long-term compliance can be considered."

The **Council's own policy** includes the following:

"Points will be imposed on the appropriate licences by either Licensing Officers for minor breaches or by the Miscellaneous Licensing Sub Committee for more serious breaches regarding Public Safety. If a driver acquires more than 12 penalty points in 2 years, the Committee will determine whether the person is fit and proper to hold the relevant licence."

The taxi and private hire vehicle licensing enforcement points scheme for the District of Tendring commenced in December 2023. As **proposed (iv) it is recommended that the Council adopt the national recommendation for penalty points under the scheme such that they remain on a driver's taxi or private hire vehicle driver licence for 3 years and a private hire vehicle operator licence for 5 years. As such, if a driver/operator acquires more than 12 points in a 3-year period the Miscellaneous Licensing Sub Committee will determine whether they retain that licence. However, the duration of taxi and private hire vehicle licensing enforcement points shall be reviewed as we approach December 2025 (2 years after its introduction).**

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

Cabinet – 10 November 2023

Licensing and Registration Committee – 16 October 2023

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 – Programme of Implementation set by Officers

Appendix B – Proposed Vehicle Daily Check form

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