

REVISED HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

Head of Service:	Rod Brown, Head of Housing & Community
Wards affected:	(All Wards);
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	
Appendices (attached):	Appendix 1 – Summary of responses Appendix 2 – Proposed Hackney Carriage and Private Hire Licensing Policy

Summary

On 26th April 2022 the Licensing and Planning Policy Committee agreed a draft revised Hackney Carriage and Private Hire Licensing Policy to be consulted on. An 8-week public consultation ran from 15 July until 9 September 2022, and the Committee are asked to consider the responses and approve a revised policy which can be recommended for adoption by Full Council.

Recommendation (s)

The Committee is asked to:

- (1) Consider the responses to the public consultation
- (2) Agree the adoption of the Hackney Carriage and Private Hire Licensing Policy as set out in Appendix 2
- (3) Agree that minor changes be delegated to the Head of Housing and Communities in consultation with the Chair of the Licensing and Planning Policy Committee and the Director of Housing, Regeneration and Environment.
- (4) Agree that the Hackney Carriage and Private Hire Licensing Policy as set in Appendix 2 is recommended for approval at Full Council

1 Reason for Recommendation

- 1.1 To adopt the Hackney Carriage and Private Hire Licensing Policy to ensure the Council meets the national minimum standards issued by the Department of Transport.

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2 Background

- 2.1 The Council has a Hackney Carriage and Private Hire Licensing Policy that was last reviewed in 2018.
- 2.2 The Department of Transport has issued statutory taxi and private hire vehicle (PHV) standards to licensing authorities, outlining how they should carry out their licensing function. The focus of these standards is to further enhance the protection to children and vulnerable adults arising from the recommendations contained within several high-profile investigations of exploitation elsewhere in the country which implicated parts of the trade. The Government have made it clear that they expect all licensing authorities to implement these changes.
- 2.3 On 26th April 2022 the Licensing and Planning Policy Committee agreed a draft revised Hackney Carriage and Private Hire Licensing Policy to be publicly consulted on. In addition to incorporating the new statutory standards, the revised policy also unifies several taxi and private hire policies into a single document, as well as updating and clarifying areas of the previous policy in accordance with recognised best practice. The draft policy brings greater precision to existing provisions and aligns the Council with most other licensing authorities who have reviewed, or are in the process of reviewing their policies following the publication of the statutory standards.
- 2.4 An 8-week public consultation ran from 15 July until 9 September 2022. The consultation appeared on the Council's website and was publicised on the Council's social media channels. In addition the consultation was sent directly to all Members of the Council, taxi and private hire licence holders, and other key stakeholders. An engagement event was also held at the Council with members of the taxi trade during which the proposed changes were highlighted and feedback taken. As part of the consultation, consultees were encouraged to complete a brief questionnaire to help provide focus on the key issues.

3 Analysis of the Consultation Responses

- 3.1 We received 34 responses to the survey, with 16 of these responses from members of the public (i.e., non-licence holders). Respondents to the survey could make comments on any part of the policy either as part of the survey or by independently contacting the Council's licensing service. A summary of the consultation responses is provided at Appendix 1, including a response by officers on the comments made as part of the consultation.

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- 3.2 The survey responses showed particularly strong support for the proposed policy changes with respect to the time frame for licence holders notifying the Council of convictions, etc. (Q6 of the survey), mandatory provision of card payment terminals in taxis (Q7) and banning the use of vaping and e-cigarettes in licensed vehicles (Q10). In reviewing the consultation responses most areas of the revised policy can be considered uncontentious.
- 3.3 However, in considering the consultation responses it is evident that some areas of the policy require further development, as identified below; -
- 3.4 **CCTV:** The statutory standards require that all licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues. The statutory standards note that the imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to trigger concerns about the proportionality of such an approach and will therefore require an appropriately strong justification.
- 3.5 Q2 of the survey asks, 'Have you ever had an experience in a licensed taxi or private hire vehicle where you believe the installation of CCTV may have had a positive effect on safety?', to which 7 out of the 34 respondents answered yes, which is obviously of concern. Of the 7 positive responses to Q2, 5 were from members of the licensed trade, one from a member of public, and one from a Surrey Police member of staff.
- 3.6 The response to Q2 appears at odds with other information received by the licensing team. Q1 shows that the installation of CCTV was the least frequently chosen important factor for the survey respondents when choosing a taxi provider. And at the engagement event held with members of the taxi trade the mandating of in car CCTV was opposed and the Licensing team were asked for their justification for considering mandating CCTV. The Licensing team have no recorded reports with respect to taxi or private hire in recent years in which the use of CCTV could be considered to have a likely positive impact, and the previous Licensing Manager put on record that in the last 17 years there had been no reported sexual offences occurring in locally licensed vehicles. Discussions with Surrey Police has also indicated that the local level of crime reporting in relation to taxis and private hire vehicles appears very low in comparison to other areas.
- 3.7 Q2 was phrased very broadly with the intention of not restricting reports of when incidents where CCTV may have had a positive effect. Of those who said the installation of CCTV may have had a positive effect, we do not know whether this referred to an incident involving an Epsom & Ewell BC licenced vehicle or driver, or whether the incident happened within the Borough or elsewhere.

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- 3.8 The absence of this information means it is not clear that there is appropriately strong justification to mandate in car CCTV, given the cost implications to the trade, and the possible impact such a requirement would have on the trade and the availability of local licensed vehicles.
- 3.9 None of the licensing authorities neighbouring Epsom and Ewell Borough (including TFL) have mandated in car CCTV for their licensed vehicles. If local licence conditions are unduly restrictive it may limit access to locally licensed vehicles and encourage the use of out of area vehicles that are not subject to the same conditions
- 3.10 Although the consultation responses indicate there may be a need for further analysis of the association of local crime with the private hire and taxi trade, it is proposed that this should not hinder the timely review of the licensing standards, as such a delay would itself be detrimental to public safety. The further analysis of any such association will be completed in the following 6 months and reported back to this Committee as necessary. In the meantime it is recommended that the revised policy does not contain a requirement for mandatory CCTV but that drivers will be supported in installing such a system on a voluntary basis if they wish.
- 3.11 **English Language Test:** The statutory standards recommends that a licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above. The current knowledge test assessment that all applicants for a driver licence is conducted orally, however it does not include a written English assessment
- 3.12 The responses to Q8 showed that there was very strong support for a new driver being assessed on their English language ability. The policy as drafted proposes an English Language assessment that now includes a written assessment.as part of the knowledge test which all new drivers must undertake
- 3.13 The survey responses to Q9 indicated a large majority of respondents also considered that existing licensed drivers should be assessed on their English language ability, and face having their licence revoked if they do not pass the test, even if no complaints have been received. Whilst the statutory standards recommends that any changes in licensing requirements should be followed by a review of the licences already issued, officers had considered that the assessments already applied necessary to obtain a badge, combined with a lack of any information to suggest there was a lack of language proficiency, meant that a formal English language assessment would not be necessary for existing drivers.

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- 3.14 If the Council were to adopt such a requirement it would have to consider a means of assessment for the substantial number (over 700) of existing licensed drivers and how such an assessment would be conducted and funded. Such a significant change would impose considerable additional work on the existing Council staff dealing with licensing, and consideration would be required as to how the Council's Public Sector Equality Duty would be formally assessed. It is also necessary to consider that there has never been a recorded complaint concerning a driver's lack of English language proficiency.
- 3.15 Given the significant questions to be resolved on how an English language assessment for existing drivers could be implemented, it is proposed that the policy go forward with the English language assessment for new drivers only, subject to adequate safeguards to support the Council's Public Sector Equality Duty, and any further extension of language assessment be considered as part of future policy reviews.
- 3.16 **Emissions Controls:** The government's statutory licensing standards, which this policy revision is seeking to incorporate, does not stipulate emissions standards for licenced vehicles. The priority for the current review was to implement the recommendations from the statutory standards, without further delay, whilst ensuring there were no compelling local reason not to.
- 3.17 However, the Council has made a clear commitment to tackle climate change and reduce carbon emissions, publishing the Climate Change Action Plan in 2019. A theme of the Council's Climate Change Action Plan is 'Transport improvements & switch to lower polluting vehicles'. As a result, the consultation was used to also identify future policy changes with respect to emissions controls for licensed vehicles.
- 3.18 When considering the likely impact on air quality of a vehicle the simplest measure is their Euro Standard. Since 1992, European Union regulations have been imposed on new cars, with the aim of improving air quality. This means a vehicle has to meet a certain Euro emissions standard when it is made.
- Euro 4- car newly registered from 1 January 2006
 - Euro 5- car newly registered from 1 January 2011
 - Euro 6- car newly registered from 1 September 2015
- Because petrol and diesel engines produce different types of emissions they are subject to different standards.

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- 3.19 The existing Epsom & Ewell hackney carriage and private hire policy requires Euro 5 as a minimum standard for hackney carriages licensed for the first time, however hackney carriage proprietors who have held a licence prior to January 2013 are entitled to renew/transfer their vehicle to a Euro 4 standard vehicle. Whilst no specific emission standards apply to private hire vehicles presented for first licensing, they must not be more than six years old (effectively requiring them meet the Euro 6 standard). However exemptions from this requirement exist for vehicles considered in excellent condition. There is no upper age limit applied to either taxis or private hire vehicles, resulting in a large proportion of the fleet not meeting the standards required for new vehicles. Presently, all vehicles are required to undergo annual MOTs with vehicles over the age of 4 years required to complete two MOTs per year.
- 3.20 As part of the consultation the Council's Environment & Sustainability Officer noted that most Surrey & London Borough policies now set Euro 6 as a minimum standard for first time licenses and set a date for when all renewal licenses have to meet this standard as well (2025 for most).
- 3.21 Several authorities in Surrey (Guildford & Waverley) have now gone further and set dates for when all new licenses and renewals must be Ultra Low Emission Vehicles (ULEV), as defined by the Vehicle Certification Agency (2030/2031). It was noted that this licensing authority taking the same action would support the goals set out in the Council's Climate Change Action Plan, and the wider Surrey Climate Change Strategy and Greener Futures Action Plan.
- 3.22 At the engagement event held with members of the taxi trade possible revisions of taxi emission limits were discussed. The trade representatives raised particular concern that, unlike other Surrey licensing authorities, this Council required taxis to be London style black cabs, and that low emission versions of these vehicles were disproportionately more expensive and retained their higher value due to a lack of supply resulting from the implementation in London of the Ultra Low Emissions Zone.
- 3.23 It was further submitted that the earnings potential for taxis operating in the Borough was considerably less than those operating inside London. It was noted that many of the taxi drivers now had retirement plans in mind, and the extra cost of buying a low emissions black cab would unlikely to be recovered in their working life, potentially forcing drivers to quit the trade early. It was however agreed that the most polluting taxis (e.g. Euro 4 diesel vehicles) should be phased out as a priority.
- 3.24 The survey results show at Q1 that relatively few respondents considered environmental impact important when choosing a taxi or private hire provider, and at Q4 the relatively few respondents would want to pay extra to use a greener licensed vehicle.

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- 3.25 The draft policy that consulted on did not propose new emission limits for licensed vehicles. To avoid delaying the revision of the policy in line with national standards, it is proposed that consultation responses relating to emissions standard for license vehicles are used to inform a subsequent review of the policy.
- 3.26 As part of any subsequent policy review, consideration will be given to whether the requirement for taxis to be London style black cab style vehicles should be relaxed. If such a relaxation were to be applied, then this could play a part in the increased licensing of low emission and electric vehicles. As all black cabs are wheelchair accessible, any such proposal would be subject to an equalities impact assessment as well as consideration for ways of avoiding a loss of Hackney Carriages at a time when the Council is keen to improve the safety of the night time economy, the presence of safe and licensed vehicles being important to this
- 3.27 **Additional interim MOT requirements:** Currently the Council requires licensed vehicles over 4 years old to pass an additional MOT after 6 months (twice yearly). The draft policy consulted on proposed that licensed vehicle over 10 years old should pass an MOT every 4 months (three MOTs a year). This was not a requirement of the statutory standards but was proposed in the absence of an upper age limit on vehicle licensing, resulting in some vehicles being licensed of an age that might reasonably give some concern as to their ongoing mechanical fitness.
- 3.28 The survey responses showed at Q5 that there was not strong support for this proposed additional requirement. At the engagement event with taxi drivers it was raised that this had been a requirement of an earlier policy, but that it had been removed following an acknowledgement that taxis in the borough completed relatively (by taxi standards) low annual mileage.
- 3.29 The Department of Transport has recently consulted on an updated best practice guidance on taxi and private hire vehicle licensing and has indicated that when published this may include guidance on the frequency of mechanical testing for licensed vehicles.
- 3.30 As a result of this and the consultation responses, it is proposed that the new requirement for additional MOT checks for vehicle over 10 years old be removed from the revised version of the policy. When the best practice guidance is updated a report recommending any changes to policy required as a result of the guidance will be provided to the Committee.

4 Conclusion

- 4.1 The consultation responses, including the 'any other comment' section, do not identify any compelling local reason not to introduce minimum licensing requirements set out in statutory standards. As there are no compelling local reason not to, it is proposed that these requirements should be adopted as policy without delay.

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- 4.2 Having considered the consultation responses, it is proposed that the revised policy be amended as attached at Appendix 2. Changes to the policy from the version consulted on are highlighted as 'track changes'. These changes will not be highlighted in the published version of the policy should Committee agree that it is adopted.
- 4.3 The report recommends to Committee that they refer the revised policy as attached at Appendix 2 to Full Council with a recommendation for adoption.
- 4.4 Should the Committee identify further changes to the policy are needed, but these are not of such substance to warrant the delay to the implementation of the statutory standards, it should be resolved that necessary minor changes be delegated to the Head of Housing and Communities in consultation with the Chair of the Licensing and Planning Policy Committee and the Director of Housing, Regeneration and Environment.
- 4.5 The consultation has identified some areas where further work is required (as highlighted in section 3 above) ie mandatory CCTV, English language tests and emissions controls. It will be necessary to carry out a focussed review including more detailed work with the trade and other stakeholders. Any changes identified following this review will be considered by this Committee as part of future policy amendments. Officers will return to Committee with the necessary reports at the earliest practical opportunity

5 Risk Assessment

Legal or other duties

5.1 Equality Impact Assessment

5.1.1 An equalities impact assessment screen has been carried out and no appreciable impact has been recorded. It will be necessary to consider this further during consideration of the implementation of English language tests, CCTV and emission controls.

5.2 Crime & Disorder

5.2.1 The proposals are designed to enhance the controls on crime and disorder by adopting the national standards.

5.3 Safeguarding

5.3.1 The proposals will enhance safeguarding by mandating regular criminal record checks and safeguarding training for all drivers.

5.4 Dependencies

5.4.1 None identified

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5.5 Other

5.5.1 None identified

6 Financial Implications

6.1 None identified

6.2 **Section 151 Officer's comments:** None arising from the contents of this report.

7 Legal Implications

7.1 Whilst there is no law to compel Councils to adopt the statutory standards, there is a strong expectation that they shall and there is considerable legal and reputational risk in the event of an incident which could have been addressed by the new standards.

7.2 The Statutory Taxis and Private Hire Vehicles Standards have been issued under the Policing and Crime Act 2017 and came into effect on 20 July 2020. The Act enables the Secretary of State for Transport to issue statutory guidance on exercising Taxi and Private Hire licensing functions to protect children and vulnerable adults from harm when using these services. Section 177(4) of the Act places a statutory duty upon any public authority which has licensing functions under taxi and private hire vehicle legislation to have regard to any such guidance. These functions include developing, implementing, and reviewing their taxi and private hire vehicle licensing regimes. In accordance with the provisions within the Act, the Department for Transport published the final Statutory Taxi and Private Hire Vehicle Standards in July 2020. Standards have been issued in light of evidence that taxis and private hire vehicles are viewed as a high-risk environment, specifically in terms of risks to passengers

7.3 **Legal Officer's comments:** Under section 1 of the Equality Act 2010 (EA 2010) a local authority must when making decisions of a strategic nature about how to exercise their functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

7.4 Under section 149 EA 2010 there is a public sector equality duty. A local authority must in the exercise of its functions: (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; and (c.) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (section 149(7) EA 2010).

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- 7.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to: (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and (c.) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low (section 149(3) EA 2010).
- 7.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities (section 149(4) EA 2010).
- 7.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding (section 149(5) EA 2010).
- 7.8 Compliance with the public sector equality duty may involve treating some persons more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the EA 2010. (section 149(6) EA 2010).
- 7.9 The Hackney Carriage and Private Hire Licensing Policy has had regard for to the public sector equality duty and the need to protect the needs of disabled people and those with a relevant protected characteristic.
- 7.10 Statutory guidance should be followed unless the local authority judges on admissible grounds that there is good reason to deviate from it, but without freedom to take a substantially different course. The Policy follows the Statutory Taxi and Private Hire Vehicle Standards which is statutory guidance.

8 Policies, Plans & Partnerships

- 8.1 **Council's Key Priorities:** The following Key Priorities are engaged: Safe and Well
- 8.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 8.3 **Climate & Environmental Impact of recommendations:**
- 8.4 **Sustainability Policy & Community Safety Implications:** No sustainability implications. These proposals are expected to enhance community safety.

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8.5 **Partnerships:** None

9 **Background papers**

9.1 The documents referred to in compiling this report are as follows:

Previous reports:

- [Item 40, 26 April 2022 Licensing and Planning Policy Committee](#)

Other papers: None