

# Hackney Carriage and Private Hire Trades Licensing Policy - For Approval

## Community Services Committee Tuesday, 16 January 2024

Report of: Deputy Chief Executive

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Purpose: For decision

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Publication status: Unrestricted

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Wards affected: All

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### **Executive summary:**

Following the publication of the Statutory Taxi & Private Hire Vehicle Standards by the Department for Transport in July 2020, all licensing authorities are required to review their licensing policies in respect of Hackney Carriage and Private Hire licensing.

The new policy will incorporate the additional requirements placed on licensing authorities within the Statutory Standards. The Department for Transport have stated that the Council must merge all existing different policies into one coherent all-encompassing policy that will provide clarity and guidance to members of the trade and the public alike.

The Council's draft policy was subject to a consultation exercise with the Hackney Carriage and Private Hire trade and their views have been taken into account in producing the draft policy.

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### **This report supports the Council's priority of:**

Creating the homes, infrastructure and environment we need

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## **Recommendation to Committee:**

That the Committee considers the revised licensing policy for Hackney Carriage and Private Hire and subject to any amendments approve the proposed Policy and determine the implementation date as 1<sup>st</sup> April 2024.

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## **Reason for recommendation:**

- Under Section 177 of the Policing and Crime Act 2017, the Secretary of State may issue statutory guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children and vulnerable individuals who are 18 or over from harm.
  - On 21 July 2020, the Department of Transport issued Statutory Taxi & Private Hire Vehicle Standards, referred to in this report as the 'The Statutory Standards'.
  - The Statutory Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance.
  - The introduction to the Statutory Standards states that the Department for Transport "expects these recommendations to be implemented unless there is a compelling local reason not to."
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## **Introduction and background**

- 1.1 Licensing Authorities should review their policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually, or any changes in the legislation and guidance.
- 1.2 Members will recall that a report came before Committee in June 2023, with a draft policy and requesting approval for consultation with the licensed trade in respect of the Council's policy.
- 1.3 The consultation took place between the 10<sup>th</sup> July and 6<sup>th</sup> October 2023. During this period only two written comments were received by the licensing authority. However, a meeting with the trade representatives took place on 13<sup>th</sup> September 2023 to discuss in detail the proposed policy and possible amendments.
- 1.4 In general, the policy was well received by the trade, with only minor amendments being requested which in the main have been accepted by the licensing authority.

## Proposed Policy

- 2.1 The current Hackney Carriage and Private Hire Licensing Policy for the Council was last reviewed in 2015, prior to the Statutory Standards being issued by the Department for Transport (DfT). The policy was approved by the Committee of 5<sup>th</sup> March 2015. A copy of that policy can be found on the Tandridge District Council website here:  
<https://tandridge.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13367>.
- 2.2 The current Hackney Carriage and Private Hire Policy regarding the relevance of convictions and other related information was approved by the Committee on the 19<sup>th</sup> September 2017. A copy can be found on the Tandridge District Council website here:  
<https://tandridge.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13367>.
- 2.3 The updated policy, with amendments highlighted, is attached at **Appendix A** to this Report. Members are aware that for Licensing and Environmental Health matters, a shared service is provided by Mole Valley District Council on behalf of the Council.
- 2.4 It is the intention of the Licensing Department to implement the same policy in respect of Hackney Carriage and Private Hire Licensing for both Mole Valley and Tandridge Councils.
- 2.5 The DfT published its Statutory Taxi and Private Hire Vehicle Standards in July 2020. In their introduction to this document, the DfT stated that they expect the standards to be implemented "unless there is compelling local reason not to" (Para 1.3) and that "as the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice...any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence" (Para 2.8).
- 2.6 The DfT also confirms that any changes in licensing requirements should be followed by a review of the licences already issued, but there should be a pragmatic approach to allow licence holders the opportunity to adapt or change their vehicles, or obtain the relevant training course or qualification. As a practical example of this, where existing licensed drivers are next due for renewal, the condition that they are required to attend refresher safeguarding and disability awareness training will then take effect, but the council would allow a six month window to allow the driver time to attend the training before considering any enforcement action.
- 2.7 The proposed policy updates the previous policy in respect of several new considerations that the licensing authority must take into account in developing their policy. These include, but are not limited to, the following: -

- 2.7.1 All licensing authorities should publish their consideration of the measures contained in the Statutory Standards and the policies and delivery plans that stem from these.
- 2.7.2 Licensing authorities should review their licensing policies every five years, and consider interim reviews should there be significant issues arising in their area or a change in legislation or guidance.
- 2.7.3 Policy consultation requirements.
- 2.7.4 Changes in licensing policy should be followed by a review of existing licence holders.
- 2.7.5 Licensee self-reporting.
- 2.7.6 Complaints about licence holders and information sharing.
- 2.7.7 Certificates of Good Conduct for applicants/licensees who have lived abroad.
- 2.7.8 The Regulatory Structure and Delegated Authority.
- 2.7.9 Amended convictions policy
- 2.7.10 Enhanced DBS check to be carried out every six months for licensed drivers.
- 2.7.11 Increased language proficiency – test of an applicant/driver’s oral and written English language skills.
- 2.7.12 Annual Basic DBS checks for vehicle proprietors who are not licensed drivers.
- 2.7.13 Annual Basic DBS checks for Private Hire Operator Licence holders who are not already licensed drivers.
- 2.7.14 Private Hire Operator’s must demonstrate having had sight of a Basic DBS disclosure for all their booking and dispatch staff.
- 2.7.15 Amended record keeping requirements.
- 2.7.16 Recommended use of a Penalty Points System for enforcement issues.

### **3. Consultation**

- 3.1 The consultation for this Policy ran for thirteen weeks from 10<sup>th</sup> July through to 6<sup>th</sup> October 2023. A copy of the consultation email to the trade is attached at **Appendix B** to this report.
- 3.2 The consultation period has now concluded. However, the licensing authority only received two written comments in respect of the policy.
- 3.3 A meeting with the representatives of the licensed trade took place in September 2023 to discuss in detail the draft policy and any observations from them. Whilst not received in writing, the issues raised in this meeting have been included as a response to the consultation.

- 3.4 All comments received have been taken into consideration and a summary of all the responses is attached at **Appendix C** to this report.
- 3.5 A final version of the policy, highlighted where changes have been made, for consideration of adoption is attached at **Appendix A** to this report.

## **Key implications**

### **4.0 Comments of the Chief Finance Officer**

- 4.1 There are not expected to be any additional financial implications in adopting the recommendations of this report, barring officer time which is already included in the Council's budgets.

### **5.0 Comments of the Head of Legal Services**

- 5.1 The Council is responsible for the regulation of Hackney Carriage and Private Hire licensing in the District. There is no legal requirement to have a policy in place, however it is good practice to have a policy which ensures proper regulation of the trade and that high standards are maintained.
- 5.2 In order for such a policy to be fit for purpose, it needs to be regularly reviewed and amended to reflect change, so that regulation of the trade is consistent and remains effective.
- 5.3 Failure of the Council to properly regulate Hackney Carriage and Private Hire licensing in the District and the failure to maintain a policy that is fit for purpose leaves the Council and any decisions made in relation to licensing open to legal challenge. Any such challenge carries both financial and reputational risk for the Council. The Council must be able to demonstrate effectiveness of the policy and provide confidence and reassurance regarding its implementation
- 5.4 The Statutory Taxis and Private Hire Vehicles Standards have been issued under the Policing and Crime Act 2017 ('the Act') and came into effect on 20 July 2020. The Act enables the Secretary of State to issue Statutory Guidance on exercising Taxi and Private Hire licensing functions to protect children and vulnerable adults from harm when using these services. Licensing authorities are under a legal duty, under Section 177(4) of the Policing and Crime Act 2017, to have regard to statutory guidance (which incorporates the Statutory Standards) when exercising any of their functions under taxi and private hire legislation. 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 Statutory Taxi and Private Hire Vehicle Standards in July 2020. These 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.

- 5.2 The Licensing team have reviewed the Council's current policy against the Statutory Standards and the result of this review is that the current policy requires updating to ensure that recommendations contained within the Statutory Standards which are not currently in place are included.

## **6.0 Risk Implications**

- 6.1 A legal challenge could be made to an authority's practice and any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence.
- 6.2 Whilst the legislation surrounding the licensing of hackney carriages and private hire vehicles allows local districts the flexibility to address local considerations, there is a recognition that common core minimum standards are required to regulate the sector better. A failure to review the Statutory Standards and deliver on the recommendations may make the Council susceptible to 'licence shopping', whereby those who have not met the standards elsewhere are drawn to the Council's area as the 'easy' option, resulting in a risk of reputational damage.
- 6.3 Ensuring the Council has met the Statutory Standards will provide assurance to those using taxis when visiting, living or working in the district, and will have a positive impact on how our communities live, work and relax.
- 6.4 Failure to properly consider the policy could result in the Council not complying with the legislation or statutory guidance. Having a clear policy helps to ensure that licensing decisions are fair, consistent and comply with the legislation.

## **7.0 Corporate Implications**

### **Equalities Implications**

- 7.1 The Council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.2 The Equality Impact Assessment completed for the draft policy shows that some of the protected characteristics, in particular age and disability will be impacted.

## **Employment and Resource Implications**

7.3 There are no employment and resource implications arising as a direct result of this report.

## **Sustainability Issues**

7.4 There are no sustainability issues arising as a direct result of this report.

## **Consultation**

7.5 Consultation in respect of the Hackney Carriage and Private Hire Licensing Policy has been undertaken as described in Section 3 of this Report.

## **Communications**

7.6 This report will include details of the responses to the consultation exercise and how the points raised have been considered.

## **Appendices**

Appendix 'A' – Licensing Policy for Hackney Carriage and Private Hire for Approval

Appendix 'B' – Copy of the Consultation email sent out to the trade

Appendix 'C' – Consultation Responses received

## **Background papers**

[Statutory Taxi & Private Hire Vehicle Standards](#)

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