

Hackney Carriage and Private Hire Trades Licensing Policy - Consultation

Community Services Committee Thursday, 15 June 2023

Report of: Deputy Chief Executive

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

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 Policy's 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.

Any policy must be subject to a consultation exercise with the Hackney Carriage and Private Hire trade to ensure their views are taken into account before adoption of the final policy.

This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need

Contact officer Aneurin Hughes, Senior Licensing Officer

AHughes1@tandridge.gov.uk

AneurinHughes@molevalley.gov.uk

Recommendation to Committee:

That the Committee considers the revised Licensing Policy for Hackney Carriage and Private Hire and subject to any amendments approves the draft policy for consultation seeking the views of the licensed Hackney Carriage and Private Hire trade and relevant stakeholders.

Reason for recommendation:

- 1.1 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.
 - 1.2 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'.
 - 1.3 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.
 - 1.4 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

- 1.5 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.
- 1.6 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'.
- 1.7 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. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the immigration Act 2016 and Common Law Police Disclosures (which repealed the Notifiable Occupations Scheme).
- 1.8 The Statutory Standards replace relevant sections of the Best Practice Guidance issued by the Department in 2010. Where there is a conflict

between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance, the Statutory Standards take precedence.

- 1.9 The Statutory Standards are the result of extensive consultation with the police, the trade, the Institute of Licensing and others and sets out the approach that Licensing Authorities must adopt when carrying out their functions.
- 1.10 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.”
- 1.11 It is clear, therefore, that it is the desire of the Government to see consistent standards applied by taxi and private hire licensing authorities across the country and state within the guidance - ‘In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these’.
- 1.12 In accordance with the Policing and Crime Act 2017, Licensing Authorities “must have regard” to these Standards when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 1.13 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.
- 1.14 Members may recall a report coming before them in December 2021, with further detail in respect of the Statutory Standards and requesting approval of a delivery plan. However, due to a change of staff there has been a delay in the formulation and implementation of the Licensing Policy for Hackney Carriage and Private Hire Review.

2.0 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 on the 5th March 2015. A copy of the current policy is attached at **Appendix A** to this Report.
- 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 19th September 2017. A copy of this Policy is attached at **Appendix B** to this Report.

- 2.3 The proposed joint policy is attached at **Appendix C** to this Report. Members are aware that for Licensing and Environmental Health matters, a Shared Service is provided by Mole Valley District Council who delivers services on behalf of the Council.
- 2.4 It is therefore the intention of the Licensing Department to implement the same policy in respect of Hackney Carriage and Private Hire Licensing for both District 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 states 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.

3.0 Consultation

- 3.1 The consultation will run for twelve weeks from the end of June through to the end of September 2023. This will be a public consultation, and in addition will be sent to the following: -
 - All licensed drivers and operators;
 - Community Safety and Surrey Police;
 - All local authorities in Surrey, including Surrey County Council.
- 3.2 Once the consultation period is complete, any comments received will be taken into consideration and a further report brought back to this Committee with a summary of responses and a final version of the policy for consideration of adoption, with a view to it taking effect from April 2024.

Key implications

4.0 Comments of the Chief Finance Officer

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

5.0 Comments of the Head of Legal Services

- 5.1 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 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 final 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 DfT's 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 addressed.

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 There are no equality implications as a direct consequence of this report.
- 7.2 Members are being asked to consider the Draft Licensing Policy for Hackney Carriage and Private Hire and agree to a consultation exercise to seek the views of the licensed Hackney Carriage and Private Hire trade and relevant stakeholders. Any changes to licensing policy or standards as a result of this that may have Equalities Implications will be subject to a further report that would include an Equalities Impact Assessment if necessary.

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 Draft Licensing Policy for Hackney Carriage and Private Hire will be undertaken as described in Section 3 of this Report.

Communications

7.6 The draft policy will be consulted upon, and subject to further report(s) to the Committee. These report(s) will include details of the responses to the consultation exercise and how the points raised have been considered.

Appendices

Appendix 'A' - Current Policy for Hackney Carriage and Private Hire Vehicles

Appendix 'B' – Current Policy regarding the relevance of Convictions and other related information

Appendix 'C' – Draft Licensing Policy for Hackney Carriage and Private Hire

Background papers

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

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