

# ADMINISTRATION COMMITTEE

Monday, 22 November 2021

## HACKNEY CARRIAGE AND PRIVATE HIRE POLICY AND CONDITIONS

### Report of the Legal Services Manager

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#### Recommendation(s)

It is recommended that the Committee:

- (1) consider the contents of this report, appendices and any comments or representations made on the policy, Appendix 1;
- (2) adopt the Statement of Taxi Licensing Policy and appendices to commence from 1 January 2022, Appendix 1;
- (3) agree to delay the requirement for applicants for either hackney carriage driver or private hire driver licences to have passed an approved English and Maths test until an approved provider has been procured;
- (4) agree to delegate to the Legal Services Manager the authority to approve the standard of the tests in recommendation (3) and the date the policy will be applied;
- (5) adopt option 1, private hire identification sticker, along with the requirement for the private hire operator name and contact details to also be displayed on both near side and off side of all private hire vehicles, with delegation to the Legal Services Manager to agree the position of the identification stickers to be fixed to the vehicle. See page 12 of the private hire policy and conditions contained in Appendix 1.

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#### Summary

In July 2020 the Department for Transport published their Statutory Taxi and Private Hire Standards document, attached as **Appendix 2**, which requires the licensing authority to publish a cohesive policy document that brings together all procedures on taxi and private hire vehicle licensing.

#### Statutory Powers

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976

## Strategic Implications

1. This report relates to the Council's regulatory duties. In this case the proposal aims to prevent crime and disorder in the Borough. Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise various functions with due regard to the likely effect of the exercise of those functions, and the need to do all that it reasonably can to prevent crime and disorder in its area.

## Introduction

2. The Statutory Taxi and Private Hire Standards have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017. This states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. Failure to adopt these Standards could leave the Council open to challenge.
3. Eastleigh Borough Council currently has one handbook document covering the policy and conditions set for the taxi trades licensed by Eastleigh Borough Council. There is no overarching taxi policy document. The new policy provides an overarching policy with relevant appendices setting policy and conditions for the various strands of taxi licensing, **Appendix 1**.
4. The current taxi handbook of the Council meets the Department for Transport statutory guidance generally but requires improvement in some areas, most notably criminal records check for vehicle proprietors and private hire operators.
5. The proposed policy reflects the Standards in the Department for Transport statutory guidance. Licensing staff undertook a review of the current policy and conditions which included issues raised at taxi trade group meetings. A working group was formed to include members from the Licensed Transport Forum which is formed of elected hackney carriage and private hire trade representatives and members of the licensing team to look at the proposals.
6. The proposed Hackney Carriage and Private Hire Policy Statement is an overarching policy statement with appendices detailing the policy and conditions for the five strands of taxi licensing
  - Hackney Carriages
  - Hackney Carriage Drivers
  - Private Hire Vehicles
  - Private Hire Drivers
  - Private Hire Operators

It should be noted it is not lawful to impose conditions on hackney carriage drivers. To address this imbalance the policy includes a driver code of conduct.

There are also appendices covering:

- Driver Code of Conduct
- Suitability guidance for determining Hackney Carriage and Private Hire licences
- Medical standards for drivers
- Medical exemptions under the Equality Act 2010.

7. A draft policy was presented to the Administration Committee in July 2021 and it was approved to go out to consultation. The consultation started on 6 August 2021 for a period of 12 weeks ending in Monday 8 November 2021. The consultation was carried out by email and letters to all licensed drivers and proprietors licensed by Eastleigh Borough Council, Department of Transport, Hampshire Licensing teams, Hampshire Police, Hampshire School Transport. It was also published on Social Media, in the Borough News and on the Eastleigh Borough Council website.
8. A total of 111 responses have been received throughout the consultation period. An overwhelming number of responses were in the “strongly agree” and “agree” categories. A summary of the responses is attached at **Appendix 3**.
9. Licensing staff responses to the consultation are detailed in **Appendix 4**.
10. The driver policy and conditions reflect changes to legislation, administration process changes and the new guidance. The most significant change to the current policy is a requirement for a driver to be subject to a 6 monthly enhanced DBS check, currently a DBS check is carried out every three years. This change is in line with the recommendations in the Department for Transport document.
11. In the consultation 85% agreed (strongly agreed + agreed) with the DBS checks, several expressed concern that 6 monthly checks were excessive. In the new policy once a DBS certificate is obtained an applicant will subscribe to the DBS update service which costs £13 a year. This process reduces the risk of applicants being unable to work whilst awaiting the result of a DBS check. The purpose of the check is to ensure public safety is maintained.
12. A lack of language proficiency could impact on a driver’s ability to understand written documents, such as policies and guidance. The new standards required will cover both oral and written English language skills to achieve the objectives within this report. A driver is also required to have a good understanding of maths as they are often dealing with money and required to give change.

13. Staff are currently exploring options for a provider to test English and Maths standards, this test will form part of the tests that are required to be sat by a new applicant when applying for a licence.
14. There are significant additions to the vehicle conditions:
- A requirement for proprietors to undertake DBS checks
  - A requirement to demonstrate they are a safe and suitable person to hold such a licence
  - A requirement to secure luggage to ensure passenger safety
  - Requirement to notify licensing authority of any conviction
  - Cleaner diesel engine vehicles to improve air quality
  - Guidance on CCTV fitted licensed vehicles

These bring the policy in line with the Department for Transport Standards

15. The draft policy consulted upon included two options for private hire vehicle conditions relating to door identification signage.
- (a) **Option 1** offered a door sign displaying “private hire vehicle”, the Borough Council logo, the licensed plate number and “no booking, no ride”. This sign would be supplied by the licensing team with the plate and licence. The cost to the driver would be £11.00 for each sign and this will be reviewed annually.
- (b) **Option 2** offered a door sign displaying the above information plus details of the private hire operator the vehicle was operated under. It has been identified that this option can be confused with vehicles operated in our neighbouring licensing authority and would not be unique to the Borough of Eastleigh.

The consultation has identified that 66% thought the private hire operator details should be included on the side of private hire vehicles in some form.

Option 1 signage would offer an added safety feature to the public making every licensed private hire vehicle licensed by Eastleigh Borough Council easily identifiable. Also displaying the operator details offers the public added assurance that the vehicle is properly licensed and details of the licensed private hire operator. A number of operators already display their trading details on the sides of vehicles they operate in different styles to suit their business.

16. There are also additional conditions for the operator licences:
- Provide DBS certificate
  - Maintain a register of staff working with sensitive data

- Provide a policy on dealing with ex-offenders
- Require employees to undergo DBS checks
- Detailed booking records

These bring the policy in line with the Department for Transport Standards

17. The Department for Transport (DfT) recommends policies are reviewed every five years but licensing authorities should also consider interim reviews if there are significant issues arising in their area, and their performance annually.
18. Whilst the focus of the DfT Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained within it. There is consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and campaign groups. The Department for Transport expects these recommendations to be implemented unless there is a compelling local reason not to.

### **Financial Implications**

19. The fees are reviewed regularly and the changes may impact on the number of licences granted and therefore the income to the licensing service. It will have no impact on the Council's General Fund as the licence fees are ringfenced.

### **Risk Assessment**

20. Not considering changes for a review of current policy is contrary to the Department for Transport Statutory guidance and will leave the Council at risk of challenge and reputational damage.

### **Equality and Diversity Implications**

21. The Equality Act is relevant to the decision and an Equality Impact Assessment (EqIA) has been carried out and attached as an appendix to the report (**Appendix 5**).

### **22. Climate Change and Environmental Implications**

It is considered there will be no significant implications to the environment or climate change as the proposed policy and conditions for vehicles is promoting cleaner less polluting diesel engines from 1 January 2022 which is a positive impact.

### **Conclusion**

23. It is recommended that the Committee adopt the Statement of Taxi Licensing Policy and appendices attached to this report from 1 January 2022.
24. This report recommends the delay of the requirement for applicants for either Hackney Carriage driver or Private Hire driver licences to have passed an approved English and Maths test until an approved provider has been procured. To delegate to the Legal Services Manager the authority to approve the standard of the tests for the above and the date the policy will be applied.
25. It is proposed that the Committee support the adoption of an option of private hire identification stickers on both the near side and off side of vehicles with delegation to the Legal Services Manager for the position of any stickers which are to be affixed to the vehicle.

ANDY JEFFERY- SENIOR LICENSING OFFICER  
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Appendices Attached: 5

### **LOCAL GOVERNMENT ACT 1972 - SECTION 100D**

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

#### List of Background Papers

- Appendix 1 – Full policy and conditions bundle
- Appendix 2 – DfT Statutory Taxi & Private Hire Standards
- Appendix 3 – Consultation information and comments document
- Appendix 4 – Licensing response to consultation comments
- Appendix 5 – Equalities Impact Assessment