

**LICENSING AND APPEALS COMMITTEE  
26 OCTOBER 2020**

**PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: ADOPTION OF A TAXI AND PRIVATE HIRE LICENSING POLICY**

REPORT OF: THE LICENSING MANAGER

EXECUTIVE MEMBER: HOUSING AND ENVIRONMENTAL HEALTH

COUNCIL PRIORITIES: BUILD THRIVING AND RESILIENT COMMUNITIES / RESPOND TO CHALLENGES TO THE ENVIRONMENT

**1. EXECUTIVE SUMMARY**

- 1.1 To consider the responses to a public consultation and adopt a revised Taxi and Private Hire Licensing Policy.

**2. RECOMMENDATIONS**

- 2.1. That the Committee be recommended to:
- (a) Consider the responses to the public consultation; and
  - (b) Adopt the revised Policy attached as Appendix D, subject to any amendments proposed by the Committee

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 The existing policy has worked well since its adoption with effect from 4 April 2018, having been revised in accordance with the provisions for minor amendments where appropriate.
- 3.2 The main content of the existing policy was most recently updated with effect from 4 April 2018.
- 3.3 With the advancement in technology and the Council's declaration of a Climate Emergency, the Administration's Priorities as identified in the Council Plan, and updated Climate Change Strategy 2020 the existing policy needed re-visiting to ensure that it remains fit-for-purpose and supports these corporate policies / strategic intentions.
- 3.4 As responses to the public consultation were limited and raised no significant opposition to any of the proposals officers have proposed a revised policy which, in their professional opinion, meets the existing policy objectives and the Council's corporate priorities and strategy.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Consideration was given to a range of options as part of the public consultation however the limited responses proved inconclusive.
- 4.2 In determining the proposed amendments from the range of options included in the consultation, officers have balanced the financial and administrative impact on licence holders against the Policy objectives of safeguarding the public and maintaining the existing high standard of taxi and private hire provision.
- 4.3 Officers have also had regard to the newly published Statutory Taxi and Private Hire Vehicle Standards and the need to comply with them in the absence of a justifiable reason to depart from them in favour of a local standard.

#### **5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1 The Executive Member for Housing and Environmental Health was consulted during the drafting of the proposed policy prior to public consultation and was involved in the selection of the proposals contained therein.
- 5.2 Prior to the public consultation the Taxi and Private Hire Consultative Forum, which represents the licensed trade, was advised of the proposals and were generally supportive. The Forum's proposals were also included in the draft policy published for public consultation.
- 5.3 The consultation with the Forum however took place before the Covid-19 restrictions therefore its views did not reflect the current financial challenges faced by the trade.
- 5.4 The public consultation was published on the Council's website and was live from 1 June 2020 to 21 August 2020. All proposals, including several options for some of them, were highlighted in red for ease of reading.
- 5.5 An email was sent to all licence holders outlining the main proposals with a link to the relevant page of the website.
- 5.6 The Council's Communications Team regularly posted reminders of the consultation on social media and contacted the Citizens Panel.
- 5.7 All Members were informed of the consultation by way of an Information Note in MIS on 5 June 2020.

#### **6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

#### **7. BACKGROUND**

- 7.1. A Taxi and Private Hire Licensing Policy was first adopted by the Council on 7 January 2008. It has been kept under constant review since then with regular opportunities for Members to review the Policy following public consultations.

- 7.2 In order to ensure a consistent and transparent interpretation of the legislation and Government Guidance, the publication of a Policy will assist applicants and licence holders to understand the licensing requirements of North Hertfordshire. This is particularly relevant given the subjective nature of licensing standards and the fact that the two main Acts governing taxi and private hire licensing are historic:
- Town Police Clauses Act 1847
  - Local Government (Miscellaneous Provisions) Act 1976
- 7.3 It will also inform the public of the standards required for taxi and private hire licensing in North Hertfordshire, in particular explaining the difference between taxis and private hire vehicles
- 7.4 The Policy should give the public confidence to use licensed vehicles given the high standards expected by the Council.
- 7.5 The Policy seeks to strike a balance between appropriate regulation and ensuring no disproportionate administrative burdens for businesses. It outlines the Council's expectations of licence holders in promoting its licensing objectives and the sanctions available for any licence holder not upholding the standards required.

## **8. RELEVANT CONSIDERATIONS**

- 8.1. Some of the proposed amendments were minor and merely reflected current administrative practices or clarification of wording. These attracted no representations and are not expanded upon within this report. Comments are concentrated on proposals that offered various options and those that attracted comments.
- 8.2 Hackney carriage is an historic term that is no longer relevant and rarely understood by the public who tend to use the term taxi. This approach is supported by Government who named the new national standards as Taxi and Private Hire Standards. To avoid confusion, the policy has been renamed the Taxi and Private Hire Policy.

### Statutory taxi and private hire vehicle standards

- 8.3 The Government published these national standards mid-consultation however the proposed policy had covered most of the new proposals contained in the standards.
- 8.4 All Council's will have to report back to Government by the end of January to confirm whether or not they have adopted the national standards. As with all national standards, there is the opportunity to depart locally if there is a justifiable reason to do so.
- 8.5 The only local standard proposed in Appendix D is the continuation of officer decision making as opposed to creating an additional Taxi and Private Hire Committee or Sub-Committee.
- 8.6 The reason the national standards ask Councils to consider a Committee is to ensure that the decision-maker is not involved in the application or enforcement investigation.

- 8.7 Although the licensing team is small, the 2018 Senior Management Team and then Licensing Team reorganisation in 2019 means the licensing manager has no involvement with applications or enforcement actions unless the matter is referred to him, therefore he is able to determine the applications/enforcement issues with an unfettered mind in the same way as a Committee would, with a sufficient level of separation as envisaged under the national standards<sup>1</sup>.
- 8.8 Case law in taxi and private hire licensing is constantly evolving and the creation of a Committee would require Members to receive initial and frequent ongoing training to be able to sit on the Committee. Additionally, in matters of public safety an immediate decision may be required which could potentially place the public at risk with the delay involved in constituting a Committee and preparing the committee report, as well as other resource implications for the Council's Committee, Member and Scrutiny staff and Members themselves.
- 8.9 All decisions of the licensing manager regarding applications and enforcement actions have a right of appeal to the Courts in any event, and Members should note that the Council has not lost an appeal.
- 8.10 As the current arrangements for officer decision making are working well and in the overall thrust of the new national standards, it is proposed to continue with the existing arrangements. This proposal is supported by the Executive Member.

#### No idling

- 8.11 Regular complaints are received from the public about licensed vehicles idling, which is currently only enforceable by the police.
- 8.12 By introducing a no idling requirement in the policy, licensing officers can utilise the penalty points scheme to enforce against drivers that do not comply.
- 8.13 This supports the Council's declaration of a Climate Emergency and climate change strategic approach.

#### Restricted use taxi ranks

- 8.14 When the infrastructure is in place, it is intended to restrict use of prime location taxi ranks to environmentally friendly vehicles.
- 8.15 This serves both as an incentive for licence holders to purchase environmentally friendly vehicles and addresses the issue of vehicle emissions in residential areas such as town centres.
- 8.16 This supports the Council's declaration of a Climate Emergency and climate change strategic approach.

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<sup>1</sup> Statutory Taxi & Private Hire Vehicle Standards recommendations recognises that officers could deal with 'less contentious' matters under delegation in any event, which is not defined under the standards.

### Environmentally friendly fleet

- 8.17 There were mixed responses during the consultation as the public generally support moving to environmentally friendly vehicles as soon as practicable however the licensed trade prefer to wait for the Government's preferred date.
- 8.18 To support the Council's declaration of a Climate Emergency and climate change strategic approach, it is preferable to introduce local regulations rather than wait for the Government however regard has to be given to the financial impact on the trade given the current financial situation caused by the Covid-19 pandemic.
- 8.19 In order to allow for future technological developments, rather than focus on electric vehicles, the proposal is to require all new and replaced vehicles from 2028 to be ultra-low emission vehicles (uLEVs).
- 8.20 This allow the trade time to prepare financially for the change whilst supporting a move to environmentally friendly vehicles ahead of the Government's intended date.

### Wheelchair accessible vehicles (WAVs)

- 8.21 It is proposed that the current requirement for 10% of the taxi fleet to be WAVs is retained as there is little evidence of unmet demand on taxi stands.
- 8.22 Increasing the percentage in the absence of demand would only seek to restrict new entrants into the taxi fleet due to the additional cost of a WAV compared to a non-WAV.
- 8.23 The only evidence of lack of demand is occasional complaints that WAVs cannot be booked in advance. Additionally, taxi licence holders feel that no requirement for WAVs in the private hire fleet is an unfair balance between the two arms of the licensed trade.
- 8.24 It is proposed to introduce a requirement for 10% of the private hire fleet to be WAVs to address this imbalance and increase the provision to meet the small unmet demand.
- 8.25 Both percentages will be kept under review to ensure that sufficient vehicles, both WAV and non-WAV, are available to meet demand.

### Personal use of a licensed vehicle

- 8.26 Case law has established that a licensed vehicle remains a licensed vehicle 24/7 until the licence expires, is surrendered, is suspended or is revoked. As a licensed vehicle, it must remain compliant with the policy at all times.
- 8.27 Whilst licensed vehicle owners may use their vehicles for personal use, they are still a licensed vehicle therefore must display the vehicle plate and the driver should display the driver badge. Additionally, the vehicle must not be driven by a partner/spouse/family member/friend/etc. unless they hold a valid licence from the Council to drive that vehicle.
- 8.28 The Council is aware of licence plate thefts or break-ins being an issue therefore has made an allowance that the vehicle licence plate need not be displayed whilst parked overnight outside the driver's home.

### External advertising

- 8.29 Currently there are restrictions on external advertising for licensed vehicles. In the current financial climate, additional advertising revenue could be helpful to licence holders therefore this restriction has been removed providing any advertising is in good taste and non-offensive.

### Seating in multi-passenger vehicles (MPVs)

- 8.30 Currently there are a number of restrictions on seating arrangements in MPVs which are causing confusion and problems for licence holders. Vehicles are required, in some instances, to have rear facing seats which are unpopular with passengers, and some seats are automatically precluded from use if there is not unobstructed access to the doors.
- 8.31 It is proposed to allow, in principle, any manufacturers' specification seating for MPVs provided that the other requirements of the policy can be met, for example small child seats in MPVs will not be permitted for use by adult passengers.

### Child seats

- 8.32 During compliance testing, officers have raised concerns about some of the child seats provided by drivers and the safety of children travelling in them.
- 8.33 To rectify these concerns, it is proposed that passengers travelling with children that require car seats provide their own car seats for the journey. This will protect the children travelling in the vehicle and the driver in the case of a car seat that injures, or fails to protect, a child.

### Fire extinguishers

- 8.34 Currently, all licensed vehicles are required to carry a fire extinguisher in the vehicle.
- 8.35 Advice has been received from the Fire Service that, in the event of a car fire, the driver and passengers should exit the vehicle and retreat to a safe distance rather than attempting to tackle the fire.
- 8.36 Additionally, during the hot summers, vehicle fire extinguishers are at risk of exploding under high temperatures.
- 8.37 It is proposed to remove the requirement for a fire extinguisher from licensed vehicles on safety grounds.

### Boot space

- 8.38 A small number of complaints have arisen where a person travelling in a folding wheelchair has been refused by a driver due to lack of boot space for the wheelchair.
- 8.39 This is totally unacceptable, and a requirement is proposed whereby all licensed vehicles, other than WAVs, must have sufficient boot space to carry a folding wheelchair.

### Calendar meters and printers

- 8.40 At a previous Licensing and Appeal Committee meeting, in response to evidence of overcharging and the incorrect use of manually set tariffs, that from 1 April 2021 all taxis must be fitted with a calendar meter and an attached receipt printer.
- 8.41 Due to the advancement in technology, many drivers are already able to offer receipts by way of email or text messaging and the expense of purchasing and maintaining a printer that is unlikely to be used is no longer practicable.
- 8.42 It is proposed that the requirement to fit a printer is removed however the requirement for a calendar meter remains. Several years notice of the calendar meter requirement has been given and it is an important step in ensuring the correct tariff is charged.

### Card payments

- 8.43 Due to the advancement in contactless card technology, the public are carrying less cash and have suggested that card payments in licensed vehicles would be a logical step. Many drivers already offer this facility and, when it was discussed at a previous Taxi and Private Hire Consultative Forum, no objection was raised to card payments.
- 8.44 It is proposed that from 1 April 2022 all licensed vehicles must offer a facility for passengers to pay by card, preferably contactless. In addition to convenience for the public, this will be a valuable protection for drivers as they will be carrying less cash.

### Accident reporting

- 8.45 There is a legislative requirement that all accidents involving licensed vehicles are reported to the Council within seventy-two (72) hours. This risks a potentially unsafe vehicle, or a vehicle that no longer complies with policy, being able to continue to operate for seventy-two hours before informing the Council.
- 8.46 It is proposed that a local requirement of twenty-four (24) hours is introduced to ensure that officers can assess a vehicle to decide whether or not it can continue to operate. A caveat has been added that this timescale can be extended in the case of a driver hospitalised or arrested following an accident and unable to contact the Council within this time period.

### Protective screens

- 8.47 To allow drivers to safely operate during the current pandemic, temporary permission for protective screens was given provided that are approved by the Council. Approval is necessary as there are many screens available for purchase that would risk the safety of the passengers and driver.
- 8.48 This provision has been made permanent in the policy to allow protective screens to be fitted at any time for driver safety or during pandemics, provided approval is obtained from the Council. A specification has been included to assist drivers when seeking to purchase a protective screen.

### Private hire operator management and office staff

- 8.49 The Council is aware that all persons involved in the management and staffing of private hire operator businesses have access to sensitive information that may impact on public safety and are in a position where they may be able to recognise safeguarding issues.
- 8.50 It is proposed that all private hire operator management and staff are required to undertake a basic Disclosure & Barring Service (DBS) disclosure at the operator's expense. This is supported by the new national standards.
- 8.51 Additionally, any person involved in the day-to-day management of a private hire operator business is required to attend a Council safeguarding course and ensure that office personnel are trained accordingly. This is supported by the new national standards.

### Referrals to the licensing manager

- 8.52 To ensure transparency of current processes where the licensing manager determines applications and enforcement issues, a new Appendix has been introduced to explain the process to the public and the trade.

## **9. LEGAL IMPLICATIONS**

- 9.1 Section 8.2.3 (c) of the Council Constitution states that the Licensing and Appeals Committee shall meet to:

*“to consider and amend other non-executive Licensing Policies...”*

- 9.2 By virtue of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, taxi and private hire licensing is a function *‘not to be the responsibility of an authority’s Executive’*.

Schedule 1 lists the following functions as non-executive functions:

- *Power to license taxis and private hire vehicles*
- *Power to license drivers of taxis and private hire vehicles*
- *Power to license operators of taxis and private hire vehicles*

- 9.3 The Statutory Taxi & Private Hire Vehicle Standards are issued by the Secretary of State for Transport under the Policing and Crime Act 2017. There is expectation that the recommendations be implemented unless *(as indicated above)* there is a compelling local reason not to. Paragraphs 8.5 - 8.10 above set out those local compelling reasons for Members considerations.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 The amended policy would have no additional financial implications for the Council. Case law has determined that a Council can recover its reasonable costs of administration and enforcement through licensing fees with any surplus or deficit balancing out over a three-year cycle.



- 10.2 As part of the fee setting process, costings are undertaken to ensure that the fees set adequately cover the Council's reasonable costs in compliance with fee setting case law.
- 10.3 There would be (as yet unquantified) resource implications for establishing another Committee or Sub-Committee as detailed in paragraph 8.8 above.

## **11. RISK IMPLICATIONS**

- 11.1 The risk to the Council of not periodically reviewing and amending policy is that the Policy may become outdated and no longer fit for purpose. Given that the Policy is a fundamental element of consistent decision making, a policy that was not fit for purpose would increase the risk of legal challenge.

## **12. EQUALITIES IMPLICATIONS**

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 The proposed policy does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion or any other protected characteristic. Officers work with all applicants and licence holders, where appropriate, to ensure that the Council's duty under the Equality Act 2010 is met.
- 12.3 The Policy deals specifically with the duty under the Equality Act 2010 to protect the vulnerable using taxis and private hire vehicles, specifically persons relying on assistance dogs and persons in wheelchairs. Section 167 of the Equality Act 2010 provides for the Council to designate licensed wheelchair accessible vehicles under this section making it a criminal offence to refuse to carry passengers in wheelchairs; the Council has designated all licensed wheelchair accessible taxis and private hire vehicles

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.

## **14. ENVIRONMENTAL IMPLICATIONS**

- 14.1. One of the key considerations of the new proposals is to support the Council's declaration of a Climate Emergency and Climate Change Strategy.
- 14.2 Proposals include measures such as:
- A no idling requirement for licensed vehicles
  - Timescales for the phasing out of the most polluting vehicles
  - Preferential rank provision for the most environmentally friendly vehicles
  - Other incentives, such as discounted fees, to encourage environmentally friendly vehicles

## **15. HUMAN RESOURCE IMPLICATIONS**

- 15.1 The policy will not place any new human resource implications on the Council unless the additional Committee or Sub-Committee is implemented and, in that situation, additional resource requirements will apply as detailed in paragraph 8.8 above.

## **16. APPENDICES**

- 16.1 Appendix A - Draft policy published for public consultation including all options
- 16.2 Appendix B - Summary of consultation responses with officer comments
- 16.3 Appendix C - Full consultation responses
- 16.4 Appendix D - Proposed policy

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## **18. BACKGROUND PAPERS**

- 18.1 [Statutory Taxi and Private Hire Vehicle Standards](#)