

<b>TITLE</b>	<b>Hackney Carriage And Private Hire Licensing Policy Public Consultation Responses And Determination</b>
<b>FOR CONSIDERATION BY</b>	Licensing and Appeals Committee on 22 June 2023
<b>WARD</b>	None Specific
<b>LEAD OFFICER</b>	Director, Place and Growth - Giorgio Framalocco

## **OUTCOME / BENEFITS TO THE COMMUNITY**

The Hackney Carriage (“taxi”) and Private Hire Licensing Policy (“the policy”) outlines a set of proposed standards and procedures to be used to process and determine applications for driver, vehicle, and operator licenses by Wokingham Borough Council (“the Council”).

The proposed policy is based on the principle that anyone using a licensed vehicle must be able to trust the driver; be assured the vehicle is safe; and trust any operator or driver to keep their information safe.

## **RECOMMENDATION**

**The Licensing and Appeals Committee to:**

- i. **DETERMINE** the revised policy, either approve it or make recommendations for amendment to the Director of Place & Growth for policy introduction on 31 July 2022.

## **SUMMARY OF REPORT**

- a) The Department for Transport (DfT) recommends Licensing Authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a ‘fit and proper’ person test, licence conditions, and vehicle standards.
- b) In July 2020, DfT issued Statutory Taxi & Private Hire Vehicle Standards (“the 2020 standards”) which state that Licensing Authorities must use their licensing powers to protect children and vulnerable adults. This Council has already previously implemented a number of the recommendations in [its existing policy](#) on its own volition but the 2020 standards provide the opportunity to further tighten the current licensing scheme.
- c) This draft policy was commissioned in collaboration with the Public Protection Partnership in West Berkshire and Bracknell Forest Councils. Wokingham Borough Council will be first to introduce a reviewed policy.
- d) The Licensing and Appeals Committee is invited to comment on the draft policy following public consultation and consider relevant responses.

- **Appendix A** Draft Hackney Carriage and Private Hire Licensing Policy (see attached document)
- **Appendix B** Summary of principle features of the draft policy
- **Appendix C** Consultation responses

## Background

1. The Council is, under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority responsible for regulating the Hackney Carriage and Private Hire trades operating in the Borough. The terms Hackney Carriage, or taxi, usually refer to vehicles which are licensed to ply for hire and pick people up from the roadside or a rank. The origin of the term “Hackney Carriage” is believed to stem from the centuries-old word “hackney” (or “hack”) being a horse of medium size, intended for ordinary riding at moderate pace, and often available for hire. When attached to a carriage they were first licensed in 1662 on payment of a fee, as a consequence of their increasing number.
2. In contrast, Private Hire Vehicles are only permitted to pick up pre-arranged bookings and are not permitted to be hailed to stop by a passenger who has not pre-booked. However, in this report “taxi licensing” is intended to mean both Hackney Carriages and Private Hire Vehicles.
3. At [Licensing and Appeals Committee on 6 October 2020](#) members considered a report which set out the work required to review the existing policy in line with recommendations made by the Department for Transport (DfT) [Statutory Taxi and Private Hire Vehicle Standards \(July 2020\)](#). Members agreed to receive further reports detailing changes to the policy and licence conditions to comply with the statutory standards.
4. West Berkshire and Bracknell Forest Councils have undertaken to implement formal policies and commissioned this work to [James Button & Co](#), solicitors, who are experienced in Licensing law and were also commissioned to review the existing Wokingham policy at the same time.
5. This policy aims to protect the public and build public confidence in the licensed taxi trade, by promoting:
  - safeguarding children and vulnerable adults and the prevention of crime and disorder
  - vehicle safety, comfort and accessibility
  - environmental sustainability
  - Wokingham Borough as a place to live, work and visit
6. The Council recognises the important role that taxis play in enabling people to travel. In doing so they also have a role in portraying the image of the borough. The Council recognises that the majority of licence holders operate to a good standard and want to provide the best possible service to their customers. This policy should, therefore, help the trade and the local economy thrive.
7. The draft policy is attached as **Appendix A**.
8. The principal features of the draft policy are summarised in **Appendix B**.

## Analysis of Issues

9. The [Statutory Taxi and Private Hire Vehicle Standards \(July 2020\)](#) was published by the Secretary of State for Transport under [section 177\(1\) of the Policing and Crime Act 2017](#) and sets out a framework of policies that licensing authorities must have regard to when exercising their functions. It states that:
- reports on child sexual abuse and exploitation made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing leave children and the public at risk, and
  - licensing authorities should publish their consideration of the measures contained in the Standards, and the policies and delivery plans that stem from these.
10. The principal changes contained in the 2020 standards are:
- a) Fit and proper test - There is still no statutory definition of what amounts to a 'fit and proper' person for the purposes of the legislation, but there is now much more robust guidance in the new standards
  - b) Administration - There should be sufficient training and adequate resource for all those involved with making licensing decisions. Any functions that are delegated should be set out in a clear scheme of delegation and whilst less contentious matters can be resolved by authorised officers, it is recommended that more serious matters are dealt with by committee
  - c) Whistleblowing - It is recommended that authorities have effective internal procedures for staff to raise concerns and procedures in place for any concerns to be dealt with openly and fairly
  - d) DBS checks - Subscription to the DBS Update Service by drivers and operators at their own expense and the records reviewed every six months.
  - e) Overseas convictions – certificates of good character should be obtained where an applicant has previously lived outside the UK for more than 3 months
  - f) Convictions policies - All authorities should have a clear policy that takes a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime
  - g) Complaints against licensees - All authorities should have robust complaint recording systems and take action if necessary
  - h) Mandatory safeguarding awareness training for all drivers. Training should include 'County Lines' drug trafficking awareness
  - i) Literacy and numeracy - All licence holders to demonstrate proficiency in English language. Drivers should be able to provide correct change and produce a legibly written receipt upon request

- j) Enforcement - Suspension and revocation of driver licences. The guidance clarifies situations in which revocations and suspensions may be used. Drivers should be made aware of relevant policies
- k) Local consultation - It suggests it is good practice to consult when proposing significant changes in local licensing rules.

## **Policy consultation**

11. The results of the policy consultation are attached as **Appendix C**.

12. The majority of feedback has come from local residents. There is majority agreement and support for all measures detailed in the consultation questions.

13. One respondent has brought the following to the attention of elected members:

“I have read the policy and would like to make some suggestions. Clause 3.29 states 6 months inspection for less than 5 years old vehicles and 3 inspections for more than 5 year old vehicles. I strongly disagree with this change as it will put us under more financial pressure. I think you should keep this as 1 inspection for less than 5 year old and 2 inspections for more than 5 year old and add a clause for 3 inspections for more than 10 year old vehicles.”

14. A response has also been received from Wokingham Borough Council’s Community Transport Manager, Rebecca Brooks:

“2.6 – Can we have further information on the required “driving proficiency certificate” please? If this is a second driving test, CTU can’t support this for school contracts, as it is causing a massive delay in getting new drivers through. In the meantime our costs are going up due to limited supply of licenced drivers (drivers are asking for higher and higher wages by playing one company off against another). At the moment there is also a high risk that there will be insufficient supply of drivers to allow us to fulfil our statutory duty for September 23 on school transport.”

15. Members are encouraged to discuss and take a view on the above consultation responses. Both of the above measures raised are local policy and not a standard introduced by the DfT statutory guidance, ultimately these two issues raised are for the Licensing Committee to determine their own approach to these consultation responses.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

***The Council faces unprecedented financial pressures as a result of; the longer term impact of the COVID-19 crisis, Brexit, the war in Ukraine and the general economic climate of rising prices and the increasing cost of debt. It is therefore imperative that Council resources are optimised and are focused on the vulnerable and on its highest priorities.***

<b>Other financial information relevant to the Recommendation/Decision</b>
This report introduces a revised taxi licensing policy following public consultation. There are no financial implications.

<b>Cross-Council Implications</b>
Community Transport have submitted a consultation response.

<b>Public Sector Equality Duty</b>
Self-employed people of Black, Asian and Minority Ethnicity are strongly represented among drivers and operators in the taxi and private hire trade. Customers of the trade are strongly represented by young women, people with disabilities and older people, and generally by people who do not own a car. For these reasons, it is important to ensure that this remains a profitable sector. An equalities impact statement will be completed prior to the implementation of a new policy on 31 July 2023.

<b>Climate Emergency – <i>This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030</i></b>
A thriving taxi trade will contribute to carbon neutral objectives by assisting to reduce reliance on personal vehicle transport.

<b>Reasons for considering the report in Part 2</b>
N/A

<b>List of Background Papers</b>
<ul style="list-style-type: none"><li>• Department for Transport (DfT) <a href="#">Taxi and Private Hire Vehicle Licensing Best Practice Guidance (March 2010)</a></li><li>• DfT <a href="#">Statutory Taxi and Private Hire Vehicle Standards (July 2020)</a></li></ul>

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## **Appendix B** Summary of principle features of the draft policy

### **Drivers (pages 3 to 13)**

- 1) A licence will not be issued until the appropriate fee is paid
- 2) The Council issues dual or combined drivers' licences. These enable a licensee to drive a Hackney carriage or private hire vehicle licensed by the council
- 3) Drivers' licences will be granted for a period of 3 years unless an applicant requests a licence for a one-year period. An application for the renewal of a licence must be made prior to the expiry of the licence, and in sufficient time to enable it to be processed and renewed before the existing licence expires
- 4) Licensees must comply with their duties under the relevant parts of the Equalities Act 2010
- 5) Public protection will be the overriding consideration whenever the council considers taxi licensing matters
- 6) Licences are only granted to people who satisfy the council that they are fit and proper people to hold such a licence. It is for the applicant to demonstrate that they are a fit and proper person, and not for the council to prove that they are not
- 7) Unacceptable behaviour can lead to licences can be suspended, revoked or not renewed. There are rights of appeal against suspensions and revocations, together with refusals to grant and conditions attached to the licence
- 8) Every application for a licence must be accompanied by satisfactory evidence of the following:
  - a. A full UK, Northern Ireland, European Economic Area ("EEA") or Exchangeable driving licence (held for a period of at least 1 year prior to the date of application)
  - b. Evidence of the right to live and work in the country
  - c. An authenticated form of photographic identification
  - d. An enhanced criminal record check (DBS) including the child and adult barred list
  - e. A certificate of current medical fitness to DVLA Group 2 standard
  - f. The required post-qualification driving experience and the required level of competency
  - g. Sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for
  - h. That where specified the applicant has completed safeguarding awareness training

- i. To have passed a practical driving and wheelchair assessment before applying for a dual driving Licence. These assessments must be passed again every 6 years
  - j. A good knowledge of Wokingham Borough and the surrounding area. They will be required to pass a test on this knowledge prior to a licence being issued. This test must be passed again every 6 years
  - k. The requirements for operators and vehicles that only undertake school or community service contracts are the same as for all other private hire operators and vehicles but will be excluded from the requirement to undertake a knowledge test as they will be undertaking journeys on fixed routes.
  - l. A good knowledge of the Highway Code. This test must be passed again every 6 years.
  - m. To have undergone training in the assistance of disabled persons, to a standard acceptable to the Council. Refresher training will be required every three years.
  - n. Completion of a course in Safeguarding, Child Sexual Abuse and Exploitation (CSAE) and County Lines
- 9) The applicant will be given three attempts to pass each of the required tests to become a licensed driver. If they have not passed after the third attempt no new application will be accepted for a period of three calendar months
- 10) Where a licence is found to have been obtained using false or incomplete information enforcement action may be taken, and the matter may be reported to the police
- 11) The council provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a licence revoked, or an application for one refused.

### **Vehicles (pages 13 to 27)**

- 12) No vehicle will be licensed unless it
- a. has undertaken and passed the Hackney Carriage and Private Hire Vehicle Test, at a Council nominated garage
  - b. has provision for every passenger to wear a seat belt. A sign must be displayed inside the vehicle requiring seat belts to be worn.
- 13) Vehicles up to five years old (or which have travelled less than 25,000 miles) will be subject to an inspection before grant or renewal, and at 6 months after the date of grant or renewal at one of the Council's nominated testing stations.
- 14) Where vehicles are five years or older, or which have travelled more than 25,000 miles, they will be subject to an inspection before grant or renewal and then at 4

monthly intervals for the duration of the licence. If an inspection is not carried out in the month that it is due, the licence will be suspended until such a test has been passed. The 10 year age limit (unless in “exceptional condition”) is repealed.

- 15) All vehicles must meet the Euro 5 or Euro 6 emissions standards if they are being submitted for grant or renewal of a licence
- 16) All Hackney Carriage vehicles must be wheelchair accessible in accordance with the specification. Wheelchair accessible Private Hire Vehicles must also comply with the specification
- 17) All applications for grant or renewal of vehicle licences must be accompanied by documentary evidence that the vehicle has been regularly serviced and maintained in line with the manufacturer’s servicing schedule
- 18) Detailed standards for vehicles are on pages 16 to 27 in the draft policy

### **General**

- 19) Policy in relation to Private Hire Operators is on pages 28 to 33
- 20) Policy on Enforcement and Appeals is on page 34
- 21) Criminal Convictions Policy is on pages 36 to 45
- 22) Penalty Point Scheme is on pages 46 to 57
- 23) Code of Conduct is on pages 58 to 69
- 24) Licence Conditions:
  - a. Hackney Carriages - pages 70 to 78
  - b. Private Hire Vehicle - pages 79 to 87
  - c. Operators pages - pages 88 to 98

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