

Telford & Wrekin Council**Licensing Committee – 19th July 2016****Review of the Council's Hackney Carriage and Private Hire Licence Policies and Conditions****Report of the Service Delivery Manager, Public Protection****1. Purpose**

- 1.1 For Members to consider, and approve consultation on, a revision to the Council's Hackney Carriage and Private Hire Vehicle Licensing Policies and Licence Conditions.

2. Recommendations

Having considered all relevant information, for Members to approve :

- 2.1 A twelve week consultation on the amendments to the policies and conditions of licence with the Hackney Carriage and Private Hire trade, Partners and Stakeholders.
- 2.2 That the Chair of the Licensing Committee and the Principal Licensing Officer consider and determine the results of the consultation. However, if there are any adverse comments as a result of the consultation a further report will be brought before Members for determination.

3. Summary

- 3.1 Sections 47(1), 48(2) and 55(3) of the Local Government (Miscellaneous Provisions) Act 1976 [LG(MP)A 1976] allows licensing authorities to attach to the grant of Private Hire and Hackney Carriage Licences certain conditions that they consider reasonably necessary.
- 3.2 A comprehensive review of Telford & Wrekin Council's Hackney Carriage and Private Hire policies and conditions of licence has been undertaken and are now ready to go out to consultation with key stakeholders prior to their implementation.

4. Previous Minutes

- 4.1 LC-38 26th March 2013
- LC-04 26th June 2013
- LC-08 18th September 2013

5. Information

5.1 Background

- 5.1.1 Telford & Wrekin Council has responsibility for licensing Hackney Carriage and Private Hire Vehicles, Drivers and Operators within the borough of Telford & Wrekin.
- 5.1.2 The purpose of licensing Hackney Carriages and Private Hire Vehicles, Drivers and Operators is for the provision of a safe and accessible service to the public, which includes the protection of children and vulnerable people. The recommendations from the Council's recently published Scrutiny Committee Report on Child Sexual Exploitation have been considered in the preparation of this review of licensing policies and where appropriate they have been incorporated.
- 5.1.3 Section 47 (1) of the Local Government (Miscellaneous Provisions) Act 1976 [LG(MP)A 1976] allows licensing authorities to attach to the grant of Hackney Carriage Licences, section 48(2) allows licensing authorities to attach to the grant of Private Hire Vehicle Licences, section 51(2) allows licensing authorities to attach to the grant of Private Hire Driver Licences and section 55(3) allows a licensing authority to impose on a Private Hire Operator Licence, any conditions that it considers reasonably necessary.
- 5.1.4 Telford & Wrekin Council has traditionally, in accordance with the above, attached conditions to Hackney Carriage and Private Hire Licences.
- 5.1.5 A comprehensive review of the Conditions and Policies was carried out in 2013. A further review has now been carried out in accordance with best practice.
- 5.1.6 All proposed amendments to the Council's policies and conditions of licence are highlighted in red in the Appendices and will be the subject of consultation with key stakeholders. 'Comment boxes' can also be found throughout the policies helping Licensing Members to understand why the changes are being proposed.
- 5.1.7 There are a number of issues for Members to consider. To assist, the following itemises what the Licensing Service wishes to consult upon. To aid the reader the numbers listed against each of the changes reflect the paragraph and location within the respective documents. The proposed changes are as follows:-

Proposed Amendments to the Licensing Policy, Hackney Carriage and Private Hire

4. **Retention of Personal Details** - New paragraph to include the Council's policy on data retention.
8. **Licensing Process & Delegation of Functions** - New sentence to include the review of licences under delegated powers.
10. **Working in Partnership** - Addition of the UK Border Agency, Shropshire Council and other local authorities and Children's and Adult Safeguarding to the partnership list.
11. **The Introduction** has been expanded to include more detail regarding the existing application process for both new and renewal applications.
12. **Drivers**

Appointments - Removal of the administration fee for missed appointments following the introduction of a new way of working.

12.2 Fit and Proper Person – To include checks on the Council's Personal Safety Precautions Register and on personal information held on other relevant local authorities' systems, directly with West Mercia Police (and other relevant police forces where appropriate, or with any other appropriate organisation, agency or person

More detail about what information will be considered when assessing the fitness and propriety of a person to hold a driver licence and that an additional DBS may be required where a driver licence is reviewed.

12.3 New Applications – The requirement for applicants to provide two references is removed. A new applicant will be required to submit a proof of a Right to Work in the UK. Returning drivers who have previously been licensed by Telford & Wrekin Council must attend Driver Awareness Training which includes child sexual exploitation training and pass the Council's Driving Standards Assessment. Returning drivers will be required to sit a knowledge test if it has been more than 3 years since they were licensed with Telford & Wrekin Council.

More detail on the Driving Standards Assessments including if an applicant fails the test 3 times, he/she must

wait 3 months before submitting a further application. This is consistent with requirements for the Council's knowledge test.

Detail regarding the medical requirements has also been updated to reflect changes introduced to the Group 2 medical.

It is a new requirement that applicants and existing drivers are expected to provide details of all warnings, driving endorsements/disqualification periods relating to minor traffic offences fixed penalties, penalty charge notices and any other similar sanctions, together with any charges or arrests that they are the subject of in connection with criminal offences, whether or not actually charged with the offence, and details of any allegations of involvement in criminal activity or where they have been questioned in connection with any alleged criminal activity or inappropriate/ unacceptable behaviour or any other relevant pending matter.

13 Hackney Carriages

13.2 Use of Vehicles – Applications received where the primary use of the vehicle is outside the Borough will be amended to read *may* be referred to the Licensing Sub Committee to allow applications to be determined by delegated authority. Previously this was an automatic referral.

13.4 Criminal Record Disclosures - Introduce a Basic criminal record check for hackney carriage proprietors.

13.4.1 Applications for a Vehicle Licence – the applicant must be the registered keeper of the vehicle and have a Right to Work in the UK.

13.5.2 Testing of Vehicles – Improved content confirming the reasons why a compliance test is more stringent than an MOT test.

14 Private Hire Vehicles

14.3 Criminal Record Disclosures - Introduce a Basic criminal record check for private hire vehicle proprietors.

14.3.1 Applications for a Vehicle Licence – the applicant must be the registered keeper of the vehicle and have a Right to Work in the UK.

14.5.2 Testing of Vehicles – Improved content confirming the reasons why a compliance test is more stringent than an MOT test.

14.6.1 Novelty Vehicles, Stretched Limousines and Vintage Vehicles – Additional requirement to confirm the numbers of passenger seats on V5 form

15 Private Hire Operators

15.3.1 Application Process – the applicant must have a Right to Work in the UK.

15.7 Safeguarding – Private Hire Operators will be expected to employ a suitable trained Designated Person, in line with the recommendations from the Scrutiny Committee's Report on Child Sexual Exploitation

Dual Driver Conditions

1. General.

1.1.2 The Disclosure and Barring Service no longer send a copy of the Certificate to the Licensing Authority. It is therefore proposed that it is made a condition of licence that drivers must contact the Licensing Service upon receipt of their Certificate.

2. Medical Fitness and Medical Examination –

2.1.4 A further medical may be requested by an authorised officer if the Council has reason to believe that a driver is medically unfit to drive for hire and reward.

4. Disclosure and Barring Service Checks and Conviction Notification

4.1 Drivers must notify the Licensing Authority of Warnings.

7. Training

7.1 In order to be more flexible, amend applicants *will to may* be required to undertake up to two days training per annum and remove list of what the training will include.

7.1.1 Amend the direct costs of the training from *will* to *may* be borne by the Council.

7.2 Existing drivers to undertake a qualification in transporting passengers within 12 months of their licence being renewed.

7.3 In case of dispute, introduce a choice to drivers of where they undertake the Driving Standards Assessment.

9. ***Conduct of Driver***

9.1.5 Introduce no vaping or smoking in a licensed vehicle.

14 ***Roofsigns*** - It is proposed to remove the requirement for a roof sign on private hire vehicles (and replace with either door or bonnet stickers).

17. ***Parking and Plying for Hire***

17.1 It is proposed to replace the requirement for drivers to return to base or approved parking areas and replace with the requirement for a driver to return to a suitably safe place to park.

17.2 Drivers of private hire vehicles **must not** take unbooked fares.

20. ***Driver's Responsibilities***

20.1 & 20.2 It is proposed to remove these conditions requiring a fire extinguisher and first aid kit to be carried in the vehicle.

Hackney Carriage Conditions

2. ***Type of Vehicle***

2.1 Update to safety crash test standards of vehicles.

2.2 Add multi purpose vehicles and remove 1600cc minimum engine size. (The size of vehicles is monitored by the Council's Approved List of Hackney Carriage Vehicles.) This is proposed in order to try and encourage and increase the number of Hackney Carriages within Telford & Wrekin.

2.6 Include an age limit of 10 year on multi purpose vehicles.

2.10 Change of wording regarding the colour of vehicles to be one of the manufacturers' colours, other colours must be approved by the Council.

4. *Fire Extinguisher and First Aid Kit*

4.1 & 4.2 It is proposed to remove the requirement to carry a Fire Extinguisher and First Aid Equipment in the vehicle. Schedule 7 Construction and Use Regulations relates to Mini Buses and not taxis. Drivers are not necessarily trained in fire fighting or administering first aid. If a driver wishes to continue to carry a fire extinguisher or first aid kit for his own use or feels suitably confident to help others, then he/she can do so but at his/her own risk.

5. *Child Safety Seats* - Safety standards have been updated.

10 *Taximeters*

10.1 Add a requirement that taxi meters should be automatic tariff changing rather than changed manually.

14. *Convictions*

14.1 Add a requirement that vehicle proprietors must report convictions, charges, cautions or warnings and have a criminal record check every 3 years.

Private Hire Vehicle Conditions

2. *Roofsigns*

This requirement will be removed and replaced with a requirement to have door/bonnet stickers saying "Advanced Bookings Only" with the Company name and phone number. These stickers are commonly seen within major cities and will remind customers of the requirement to pre-book their Private Hire Vehicle.

3. *Types of Vehicle*

3.1 Change the minimum size of engine capacity from 1600cc to 1400cc..

3.6 Remove the wording "or for purpose built or adapted minibuses" as it is superfluous.

5. Limousines

- 5.6** Add a condition regarding side facing seats which will not be permitted to carry passengers under 16years of age

7. Fire Extinguisher & First Aid Kit

- 7.1** Remove this as a requirement.
- 7.2** Remove this as a requirement.

15 Convictions

- 15.1** Add a requirement for vehicle proprietors to have a criminal record check.

Private Hire Operator Conditions

1. General Requirements

- 1.1** Remove new applicants being subject to a criminal record check as it is already contained within the policy. (All licence holders are subject to a DBS check every 3 years.) However, add the requirement for licence holder to notify the Council of convictions, cautions, warnings or charges.
- 1.3** It is proposed to remove the condition relating to approved parking areas and in its place add a new condition regarding plying for hire (see no. 17 of the Council's Dual Driver conditions.). *The Operator must ensure that all private hire drivers and employees are aware of the meaning of plying for hire and that private hire drivers are not permitted to ply for hire under any circumstances.*
- 1.4** Add a new condition relating to touting. *The Operator must ensure that all licensed drivers and employees are made aware of the provisions of section 167 of the Criminal Justice and Public Order Act 1994 with respect to touting and that subject to certain provisions, it is an offence in a public place to tout people to hire their vehicles in order to carry them as passengers.*

2. LGMPAct 1976 - Conditions Attached To Licence

- 2.1** Remove the requirement for a copy of the Act to be displayed. Keep condition that Operator, Driver and Vehicle conditions are available if asked for by customers.

3. Records of Vehicles and Drivers

- 3.4** Remove the requirement for the Operator to notify the licensing authority of change of driver and vehicle proprietor details and replace with *The Operator shall notify the Council within 7 days when a driver or vehicle ceases to operate under this licence.*
- 3.5** Change the requirement to submit lists of vehicles and drivers from 4 times a year to annually at the start of the calendar year and upon renewal of the 5yr licence.
- 4.0** **Roof signs** – The requirement to have roof signs will be removed and replaced with a requirement to have door/bonnet stickers. Proposed new conditions regarding these stickers and the responsibilities of the Operator are detailed.

- 6. Child Safety Seats** – Updated to reflect most recent Safety Standards

8. Employment of Private Hire Drivers and Other Staff

- 8.5** Introduce a requirement for Private Hire Operators to display Child Sexual Exploitation information to their staff in a clearly visible place.

Taxi (Hackney Carriage) and Private Hire Licensing Criminal Convictions' Policy

Introduction – More information has been added relating to the purpose of the policy.

General Policy – The definition of a *fit and proper person* has been expanded as this is key to protect public safety.

Consideration of Disclosed Criminal History – This has been expanded. This is to assist when determining applications or when reviewing a license.

The wording *Circumstances of the individual concerned* has been removed. (The sole deciding factor should be the safety of the travelling public.)

Applicant's age at the time of conviction has been added.

Pattern of unacceptable behaviour added.

Patterns of Behaviour - Information relating to this has been expanded. This is to assist when determining applications or when reviewing a license.

Non-conviction Information – The Notifiable Occupation Scheme no longer exists. Replaced with Protection of Freedoms Act.

Licensing Offences – Information added that licences will be reviewed having regard to Council's policies.

Appendix 1 :

Minor Traffic Offences – A licence *may be reviewed by the Council's Licensing Sub Committee* has been replaced with the wording *will be reviewed by the Council* to allow for determinations under delegated powers.

The wording *Causing or permitting offences* has been added to this category.

Serious Road Traffic Offences

It is proposed to incorporate the Council's policy for the offence of *driving without due care and attention* to all offences in this category.

The wording *Inciting Offences* has been added to this category.

In relation to a driving offence resulting in a loss of life, it is proposed to replace the wording *7 years free of conviction* with *11 years free of conviction* which is the length of time codes CD40 to CD70 stay on a driving record.

The list of offences in this category have been updated.

Drink Driving/Driving under the Influence of Drugs

It is proposed to bring *3 years free of conviction* for drink or drug driving in line with proposed period for drugs convictions of *5 years free of conviction*.

Drunkness to become Drunkenness/Drugs

It is proposed to amend drunkenness related offences to so that they are consistent with drug related offences.

It is proposed to bring the current policy of *3 years free of convictions* in line with the period of time in the current policy an *applicant should show evidence of being free from drug taking of 5 years*.

Alcohol added to *drugs use, misuse or dependency*

Sexual Offences

The policies adopted by English councils tend to be similar to each other because they were all based on the Home Office Circular issued in 1992. There is widespread recognition now that the Circular's references to sexual misconduct are excessively lenient. It is therefore proposed to increase the *period free of conviction from 3 to 5 years to 5 to 10 years*.

Amended the wording *will automatically be put before the Council's Licensing Sub Committee for determination to may be put before the Council's Licensing Sub Committee for determination* to allow for determination under delegated authority.

Violence

The policy taken by the Council for the offences of *grievous bodily harm, wounding or assault* to be expanded to all convictions in this category.

The wording *3 years free of such convictions* to become *5 year free of such convictions*.

The offence of Drunk and Disorderly to be moved to Drunkenness/Drugs category.

Dishonesty

Offence of *Aggravated Taking of a Vehicle* to be moved to *Serious Road Traffic Offences*

Manual of Inspection Standards for Licensed Vehicle Testing and Compliance Standards

Suggested amendments are a repeat of the proposed amendments made to the Licensing Policy, Hackney Carriage and Private Hire and Conditions of Licence.

The suggested amendments to the ***Summary of Items to be Tested*** on page 13 are an update of items taken from the Driver and Vehicle Standards Agency MoT Inspection Manual.

- 5.1.19 Members should note that in reviewing the Council's policies and conditions of licence for Hackney Carriage and Private Hire Licensing, the main consideration of the Licensing Service has been to ensure that public safety has been a priority at all times. It is the opinion of the Service that the matters requiring consultation will not undermine this important objective.

5.2 Equal Opportunities

5.2.2 Every effort will be made to ensure that the consultation engages the whole community, including user groups.

5.2.3 An equality impact assessment has been carried out on the new policies and conditions of licence.

5.3 Environmental Impact

5.3.1 There is no environmental impact arising from this report.

5.4 Legal Comment

5.4.1 The Council has a duty to provide for the licensing of hackney carriages under the Town Police Clauses Act 1847 and under the relevant adopted provisions of the Local Government (Miscellaneous Provisions) Act 1976. In addition, the adopted provisions of the 1976 Act mean that the Council must provide for the licensing of private hire drivers, vehicles and operators.

5.4.2 There is no legal requirement for a policy, however it is best practice and the policy documents serve to outline for drivers and operators the Council's licensing powers under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.

5.4.2 Before issuing any policy or amendments the authority has an implied duty, and it is good practice to do so in line with the Department for Transport's 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010) to consult all relevant parties. A licensing policy must be reasonable and proportionate. However, the proposed policy cannot fetter the Council's discretion and each application of enforcement matter will be judged on its own merits whilst having regard to the policy ensuring a transparent and consistent approach to licensing that would reduce the opportunity for challenge through the Courts.

5.5 Links with Corporate Priorities

This report has links to the following Corporate Priorities:

- Protect and Create Jobs as a Business Winning Council
- Protect and support our vulnerable children and adults

5.6 Opportunities and Risks

- 5.6.1 In proposing this action the Corporate Risk Management Methodology has been complied with.
- 5.6.2 The following key risks and opportunities associated with this action have been identified and assessed and arrangements will be put in place to manage them.
 - (i) The Financial risks to the Council in the event of a legal challenge to the change in Policy and or Conditions.

5.7 Financial Implications

- 5.7.1 Any costs arising from the amendments will either be borne directly by the applicant to the third party during the application process, or it will be incorporated into the licence fee which covers the cost of administering the licence.
- 5.7.2 Any financial implications arising from the 12 week consultation regarding the amendments to the policies and conditions of licence with the Hackney Carriage and Private Hire trade will be considered in the future report.
- 5.7.3 The risk of any legal challenge should be managed by consulting widely prior to implementation and ensuring (as far as is possible) that amendments and changes to policy fall within what is allowed by Statute. These actions should provide sufficient mitigation to the risk identified but any costs that do arise would have to be met by the service and may result in a pressure on their budget.
ER 31.5.16

6. Ward Implications

- 6.1.1 This report has implications for all wards in the Borough.

7. Background Papers

- 7.1.1 Local Government (Miscellaneous Provisions) Act 1976.
- 7.1.2 Town Police Clauses Act 1847
- 7.1.3 Conditions of Licence for Hackney Carriages - Telford & Wrekin Council
- 7.1.4 Conditions of Licence for Private Hire Operators - Telford & Wrekin Council
- 7.1.5 Conditions of Licence for Private Hire Vehicles - Telford & Wrekin Council
- 7.1.6 Conditions of Licence for Dual Driver Licences - Telford & Wrekin Council
- 7.1.7 Licensing Policy, Hackney Carriage & Private Hire - Telford & Wrekin Council

- 7.1.8 Taxi and PHV Licensing Criminal Convictions Policy - Telford & Wrekin Council
- 7.1.9 Manual of Inspection Standards for Licensed Vehicle Testing and Compliance Standards - Telford & Wrekin Council
- 7.1.10 Hackney Carriage and Private Hire Vehicle National Inspection Standards - Public Authority Transport Network
- 7.1.11 Taxi and PHV Licensing Councillors' Handbook (England and Wales) - Local Government Association
- 7.1.12 Taxi and Private Hire Vehicle Licensing Best Practice Guidance - Department for Transport
- 7.1.13 Private Hire Vehicle Licensing - A note for guidance from the Department for Transport
- 7.1.14 Hackney Carriage and Private Hire Licensing Policy 2015-2019 - Shropshire Council

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