



| <u>Committee and Date</u> |
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| Cabinet                   |
| 11 February 2015          |

| <u>Item</u> |
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| Public      |

## **HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY**

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### **1. Summary**

- 1.1** The Council's existing Hackney Carriage and Private Hire Licensing Policy ('the Policy') came into effect on 1 October 2011. It is largely based on the policy that was brought into effect when Shropshire Council was formed in 2009; consequently, the foundation of the Council's current Policy is, in effect, over 5 years old.
- 1.2** The Policy has been updated to better reflect the Council's priorities and outcomes for 2014 – 2017, in particular in relation to protecting people from harm, promoting health and managing the environment. Administrative processes have also been tightened to improve safeguarding practice and targeted enforcement to ensure ongoing compliance with the Policy.
- 1.3** Therefore, and in accordance with the resolution passed by the Strategic Licensing Committee on the 10 December 2014, this report sets out a revised Hackney Carriage and Private Hire Licensing Policy for 2015 – 2019 ('the proposed Policy') for consideration and final decision by Cabinet with respect to its adoption and implementation.

### **2. Recommendation**

- 2.1** That Cabinet agrees, with any necessary modifications, that the proposed Hackney Carriage and Private Hire Licensing Policy 2015 - 2019, as set out in **Appendix A**, is adopted by the Council and implemented with effect from the 1 April 2015.

## **REPORT**

### **3 Risk Assessment and Human Rights Act Appraisal**

- 3.1** The proposed Policy wholly supports the Council's wider priorities and outcomes associated with keeping people from harm, promoting health, managing the environment and helping people to help themselves.

- 3.2** The proposed Policy specifically takes account of the Council's safeguarding responsibilities, particularly in relation to children and vulnerable adults. The proposed Policy significantly increases the criteria that must be satisfied before a person will be deemed a 'fit and proper person' to drive a hackney carriage or private hire vehicle. The criteria are set against the findings of the Independent Enquiry into Child Sexual Exploitation in Rotherham 1997 – 2013.
- 3.3** The proposed Policy makes reference to motor vehicle emissions as they are the primary cause of poor air quality nationally and poor air quality impacts on human health and the environment. The proposed Policy introduces a requirement for hackney carriage and private hire vehicles to meet European Emission Standards over a reasonable transitional period to minimise the financial impact on the trade, particularly in rural communities. This will have the effect of contributing to the reduction of air pollution levels in a fair and proportionate way. Trade representations made during the consultation were generally in favour of the approach, particularly as the transition period was extended as a result of feedback from the initial consultation. The Council's Director of Public Health fully supports actions that improve air quality as improvement in air quality is an indicator in the Public Health Outcomes Framework.
- 3.4** By having a fair, open and clear policy, the Council is able to demonstrate that it takes its responsibilities for licensing hackney carriage and private hire very seriously. Furthermore, it provides the Council with a basis for a robust defence to any challenges that may be encountered in respect of decisions made and enforcement action taken. It also demonstrates commitment to and compliance with the Regulators' Code.
- 3.5** The proposed Policy is consistent with national guidance on hackney carriage and private hire licensing and is deemed to be best practice. The policy seeks to balance public safety as a priority against the need to minimise unnecessary burdens on the trade which is a vital component of the transport infrastructure of a rural county like Shropshire.
- 3.6** The proposed Policy also aims to ensure that the human rights of applicants, licence holders and the public who use hackney carriages and private hire services are protected. However, it is recognised that it is a fine balance to ensure that this is achieved for all parties involved. Nevertheless, the policy has been written to assist the Council to comply with the Human Rights Act 1998 and to avoid the risk of adverse Human Rights Act implications as a result of undertaking the hackney carriage and private hire licensing function.
- 3.7** Due consideration has been given to equality and diversity issues in accordance with the Equality Act 2010. An Equality and Social Inclusion Impact Assessment has been completed and is produced at **Appendix B**. Whilst the overall impact on all groups with protected characteristics is likely to be low in terms of their access to and use of services that are affected by the changes to the Policy, the Council's ability to tackle discrimination and advance equality of opportunity is likely to be positive.

- 3.8** Whilst there is no legal duty specifically placed on the Council to consult with respect to the proposed Policy, it is good practice to do so and is in line with the Department for Transport's 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010). The full extent of the consultation is available in the Strategic Licensing Committee reports produced in **Appendices C - F** and is summarised at paragraph 5.4 below.

## **4. Financial Implications**

- 4.1** There are no direct financial implications for the Council as a result of the recommendation set out at paragraph 2 above. However, appropriate staff resources will be deployed to ensure its effective implementation and enforcement.

## **5. Background**

### **5.1 General**

- 5.1.1** 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.
- 5.1.2** Whilst it is recognised that this duty requires an efficient and effective administrative process, the fundamental purpose of the licensing regime is to protect the safety of the public. This means the Council must ensure that only fit and proper persons are licensed to be drivers and operators and that vehicles remain safe and fit for the purpose of transporting fare-paying passengers. The proposed Policy aims to provide the foundation of this protection.

### **5.2 Relevant national reports**

- 5.2.1** During the process of review and consultation, officers have been mindful of the Law Commission's review of the legal framework relating to taxis and private hire vehicles across England and Wales. The Law Commission's final report and draft Bill were published on 23 May 2014 and the recommendations have been presented to Government. However, to date the Government has not responded; consequently, the extent to which the recommendations will be accepted is unknown and no timescales have been published in this respect.
- 5.2.2** The review of the Council's Hackney Carriage and Private Hire Licensing Policy is set against the background of the Independent Enquiry into Child Sexual Exploitation in Rotherham 1997 – 2013 undertaken by Alexi Jay OBE. The outcome of the enquiry was published in August 2014. In particular,

Members should note that the report states: *‘One of the common threads running through child sexual exploitation across England has been the prominent role of taxi drivers in being directly linked to children who were abused.’*

**5.2.3** The Enterprise & Growth Scrutiny Committee considered the overarching scope and purpose of the proposed Policy at a meeting held on 6 November 2014. There was overall support for the direction of the Policy with respect to ensuring public safety.

**5.2.4** As a direct result of the Jay Report, referred to in paragraphs 3.2 and 5.2.2 above, Shropshire’s Safeguarding Children Board raised concerns about hackney carriage and private hire licensing; assurances have been provided by the Council that the concerns have been addressed. In addition, the Young People’s Scrutiny Committee is due to scrutinise the Council’s overall approach to hackney carriage and private hire licensing, including the Policy, on the 4 February 2015. If the Committee recommends further changes are made to the Policy, these will be given due consideration and appropriate action taken, including further consultation with key stakeholders where necessary, to implement the recommended changes.

### **5.3 European Emission Standards**

**5.3.1** The proposed Policy includes the introduction of European Emission Standards for vehicles based on the impact that these standards have on reducing pollutants which are of concern in Shropshire. Historically, air quality was largely affected by pollution caused by industry. Today it is motor vehicle emissions that are a primary source of air pollution concerns in Shropshire and this follows the national picture. The case for tackling poor air quality has a strong evidence base; however, this has to be balanced against the need to sustain an important element of the transport infrastructure for a rural county like Shropshire.

**5.3.2** In balancing the need to contribute to improving air quality and ensuring a buoyant trade an analysis of the impact on the current fleet suggests that, with an appropriate transitional period allowing for vehicle replacements with higher emission standards, the financial impact on individual drivers and operators is likely to be in the region of between £2,000 to £3,000 per vehicle with respect to the typical vehicles that currently operate across the fleet. The majority of drivers and operators will be affected by the proposed changes in the Policy; however, the impact will, in part, be off-set by the normal process of vehicle replacement which will be led by commercial availability of suitable vehicles throughout the life of the Policy. Table 1 below sets out the number of vehicles that will be affected at each stage of the proposed transition period.

**Table 1 – number of vehicles**

| <b>Licence Type</b>  | <b>Renewing after<br/>1 April 2016</b> | <b>Renewing after<br/>1 April 2018</b> |
|----------------------|--|--|
| Private Hire Vehicle | 340                                    | 572                                    |
| Hackney Carriage     | 46                                     | 121                                    |

**5.3.3** For those who commented on the changes to emission standards, the majority were in support of the adoption of the European Emission Standards provided they had sufficient time to plan for the transition. This support, taken together with the wider implications for public health and the environment, provide a sound basis for introducing this requirement into the proposed Policy. It should be noted that the original timescale has already been extended to take account of direct feedback from the trade.

## **5.4 Consultation**

**5.4.1** Consultation with the trade has been significant and was considered in detail by the Strategic Licensing Committee. The relevant Strategic Licensing Committee reports are produced at **Appendices C – F**. The first draft policy that was published for consultation has changed considerably in response to feedback from the trade. Indeed, a significant proportion of the proposed changes have been accepted and are included in the draft Policy attached to this report.

**5.4.2** In December 2014, the Strategic Licensing Committee considered the Policy for a final time following the final consultation exercise. The changes made, as a direct result of the consultation feedback, were:

- that the requirement for hackney carriages to be black and private hire vehicles to be not black was removed pending further collaboration with the trade to achieve a voluntary acceptance of this proposal over time;
- that further work on the practical application of wheelchair accessible vehicles would be postponed pending further guidance informed by the Law Commission's report on the trade, accepting that the existing requirement for hackney carriages in 'Zone 4'<sup>1</sup> to be wheelchair accessible will remain in force;
- the proposal to amalgamate the five separate zones<sup>2</sup> will also be postponed until the full implications of the Law Commission's report on 'Taxi and Private Hire Services' (May 2014) are fully understood. The Government has yet to publish its response.

**5.4.3** A further minor amendment was agreed by the Committee to clarify the wording associated with the legal requirements around transporting children.

**5.4.4** The final version of the proposed Policy recommended by the Strategic Licensing Committee to Cabinet for consideration and a final decision is set out at **Appendix A**. (Note: It includes amendments to correct typographical errors and to address formatting and minor inconsistencies; these can be seen as tracked changes within the proposed Policy document as set out in **Appendix A**.)

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<sup>1</sup> The geographical area defined by reference to the Shrewsbury & Atcham Borough Council area that existed immediately prior to the creation of Shropshire Council.

<sup>2</sup> Within the administrative area of Shropshire Council, there are currently five zones that are a legacy from, and defined by reference to, the five district and borough council areas that existed prior to the creation of Shropshire Council. The zones are specifically set out in the proposed Policy at paragraph 3b.6. Each hackney carriage is licensed to operate in a specific zone or zones and cannot be hailed in the street in a zone for which they are not licensed. Whilst it is clearly desirable to have a single zone to reflect the unitary council area, amalgamation presents a practical difficulty due to equalities legislation, i.e. Shrewsbury & Atcham Borough Council's hackney carriage licence conditions required all hackney carriages to be wheelchair accessible. If the five zones are amalgamated into a single zone, all hackney carriages must meet this requirement.

## 6. Conclusions

**6.1** The primary purpose of the proposed Policy is to improve public safety, and in particular to ensure that the licensing administration and enforcement activity fully supports the Council's wider safeguarding responsibilities for children and vulnerable adults. There is overwhelming support for the adoption of a more robust approach for licensing activities, particularly from Shropshire's Safeguarding Children Board and West Mercia Police.

**6.2** In summary, the proposed Policy delivers:

- improvements to administration and enforcement practice to promote public safety and places a greater emphasis on safeguarding best practice when licensing hackney carriage and private hire vehicles; and
- better outcomes including protecting people from harm, promoting health and managing the environment.

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| <b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</b> |
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| <ul style="list-style-type: none"><li>• Law Commission Report on 'Taxi and Private Hire Services', published May 2014 (<a href="http://lawcommission.justice.gov.uk/docs/lc347_taxi-and-private-hire-services.pdf">http://lawcommission.justice.gov.uk/docs/lc347_taxi-and-private-hire-services.pdf</a>)</li><li>• Report of the 'Independent Enquiry into Child Sexual Exploitation in Rotherham 1997 – 2013' Alexi Jay OBE, published August 2014</li></ul> |
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| <b>Cabinet Member:</b> Cllr Steve Charmley |
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| <b>Local Member:</b> |
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| Not applicable as issue applicable to whole administrative area of Shropshire Council |
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| <b>Appendices:</b> <b>NB: Appendices C to F are available electronically via the website only.</b> |
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| <b>Appendix A</b> - Proposed 'Hackney Carriage and Private Hire Licensing Policy 2015 – 2019' |
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| <b>Appendix B</b> – Equality and Social Inclusion Impact Assessment |
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| <b>Appendix C</b> - Report entitled 'Request for the Review of the Hackney Carriage and Private Hire Policies and Associated Documents' presented to Strategic Licensing Committee on 19 March 2014 |
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| <b>Appendix D</b> - Report entitled 'Request for the Review of the Hackney Carriage and Private Hire Licensing Policy' presented to Strategic Licensing Committee on 21 May 2014 |
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| <b>Appendix E</b> - Report entitled 'Request for the Review of the Hackney Carriage and Private Hire Licensing Policy' presented to Strategic Licensing Committee on 24 September 2014 |
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| <b>Appendix F</b> - Report entitled 'Hackney Carriage and Private Hire Licensing Policy' presented to Strategic Licensing Committee on 10 December 2014 |
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