



Committee and Date

Strategic Licensing Committee

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Item

Public

## **Review of the Hackney Carriage and Private Hire Licensing Policy 2023 to 2027**

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### **1. Synopsis**

- 1.1 This report sets out the proposed Hackney Carriage and Private Hire Licensing Policy 2023 to 2027 (the Policy) upon which the Council proposes to consult and highlights those matters that have led to the most significant proposed changes.

### **2. Executive Summary**

- 2.1. The Council's existing Hackney Carriage and Private Hire Licensing Policy came into effect from 1 April 2019. Since this date there have been changes in guidance and legislation for the administration of the Hackney Carriage and private Hire Licensing regime.
- 2.2. The Policy requires updating to reflect the Council's priorities and outcomes for 2023 – 2027, in relation to protecting people from harm, promoting health and managing the environment. In addition, ongoing improvements in licensing practices and procedures need to be embedded within the Policy to further strengthen the application process and to provide the foundations for robust enforcement to increase compliance across the hackney carriage and private hire trade.

### **3. Recommendations**

- 3.1. That the Strategic Licensing Committee agree for formal consultation to be undertaken on the proposed Hackney Carriage and Private Hire Licensing Policy for no less than 10 weeks to commence from June 2022.

## **REPORT**

### **4. Risk Assessment and Opportunities Appraisal**

- 4.1. This report is the initial request to Members for permission to review the existing Hackney Carriage and Private Hire Licensing Policy. An Equality, social inclusion and health impact assessment (ESHIA) has not been completed at this stage because the report concerns the proposal to consult on the revised policy. However, an ESHIA will be completed at the end of the consultation considering all the responses received.
- 4.2. 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.
- 4.3. The Policy specifically takes account of the Council's safeguarding responsibilities, particularly in relation to children and adults (including those with care and support needs). The 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.
- 4.4. Through agencies working together and sharing information, we aim to identify and prevent sexual exploitation, modern slavery and human trafficking to protect children, young people and adults (including those with care and support needs) and disrupt related activities in order to take action under relevant licensing legislation and, where appropriate, to prosecute perpetrators of abuse.
- 4.5. The criteria continue to be set against the findings of the Independent Enquiry into Child Sexual Exploitation in Rotherham 1997 – 2013 and considers the wider implications of modern slavery, trafficking and exploitation.
- 4.6. The Policy significantly increases the criteria that must be satisfied before a person will be deemed a 'fit and proper person' to be a private hire operator or to hold a vehicle licence as a vehicle proprietor. Drivers of Hackney Carriage or Private Hire Vehicles will continue to be required to meet the robust criteria that were implemented in 2019.
- 4.7. The Department for Transport (DfT) developed the Statutory Taxi and Private Hire Vehicle Standards<sup>1</sup>, the standards introduced a set of core minimum standards to improve regulation of the taxi and private hire vehicle sector. The revised policy includes the requirements as set out in the standards.
- 4.8. The DfT Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022<sup>2</sup>. This Act and the subsequent guidance<sup>3</sup> are focused on supporting compliance and ensuring that checks are made with other Local Authorities regarding an applicant's previous licensing history and the requirement for Licensing Authorities to record previous refusals, suspensions and revocations on a central database. This allows additional enquiries to be made with the Local Authority about the circumstances surrounding the

<sup>1</sup> Department for Transport, Statutory Taxi and Private Hire Vehicle Standards July 2020 Statutory & Best Practice Guidance for taxi and PHV licensing authorities ([publishing.service.gov.uk](https://publishing.service.gov.uk))

<sup>2</sup> Department for Transport Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 [Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>3</sup> Department for Transport Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, Statutory Guidance [Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Act 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

refusal, suspension or revocation before a determination is made on an application. The new duties will come into effect from 31 May 2022 and the revised policy has incorporated the requirements.

- 4.9. The Regulators' Code, which has statutory effect by virtue of Section 22 of the Legislative and Regulatory Reform Act 2006, means the Council must have regard to the requirements of the Code. The development of a hackney carriage and private hire licensing policy to guide licensing activities will ensure that the Council satisfies its legal responsibilities with respect to specific elements of the Regulators' Code and will assist the Council to demonstrate that it has had due regard to the Code in relation to this particular area of law.
- 4.10. If the Council fails to prepare and publish such a policy the Council will be open to criticism; in particular from those parties whom the Council seeks to licence. Without a policy, officers and Members will find it extremely difficult to make appropriate and consistent licensing decisions and to take proportionate enforcement action. As a consequence, the Council will face significant difficulty in justifying the way it has reached licensing decisions and taken enforcement action.
- 4.11. This will result in the Council failing to adequately deliver its safeguarding responsibilities and reduce its ability to directly, and in partnership with other agencies, tackle child sexual exploitation. Furthermore, the Council's ability to control overall compliance of the hackney carriage and private hire trade will be hampered and there is the increased risk of:
- successful appeals by applicants who have had their licences suspended or revoked;
  - service complaints to the Local Government Ombudsman;
  - judicial review; and
  - legal challenge to any criminal proceedings instituted by the Council.
- The reputation and professionalism of the Council would clearly be at risk.
- 4.12. Conversely, by preparing and publishing a policy, the Council demonstrates that it takes its hackney carriage and private hire licensing role seriously. It creates transparency for all stakeholders providing the manner in which the Council intends to undertake its hackney carriage and private hire licensing responsibilities. 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.
- 4.13. The proposed policy is consistent with national guidance on hackney carriage and private hire licensing and is deemed to be best practice.
- 4.14. The proposed policy 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.

- 4.15 Whilst there is no legal duty specifically placed on the Council to consult with respect to this policy, it is good practice to do so and is in line with the Department for Transport's (DfT) 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010). However, at the time of writing this report the DfT are consulting on revisions to this guidance and any future updated guidance will be considered as part of the wider review of the policy.

## 5. Financial Implications

- 5.1. The financial implications associated with the recommendation are limited to the employee costs associated with undertaking the consultation exercise and any costs of publishing the revised Hackney Carriage and Private Hire Licensing Policy. These costs are recovered through the licensing fees.

## 6. Climate Change Appraisal

- 6.1. Nationally, there continues to be a significant drive to improve air quality and it is acknowledged that motor vehicle emissions continue to be the primary cause of poor air quality and that this impacts on human health and the environment. The Council needs to continue to promote measures that improve air quality including reducing the emissions from Hackney Carriages and Private Hire Vehicles.
- 6.2. The Council now has the opportunity to continue to lead the local community and further reduce the impact that vehicle emissions have on the local environment and human health by continuing to support stringent standards that reduce emissions from Hackney Carriage and Private Hire Vehicles. The Council's Director of Public Health fully supports actions that improve air quality as air quality is an indicator in the Public Health Outcomes Framework.
- 6.3. Whilst recognising the importance of continuing to reduce harmful emissions from Hackney Carriage and Private Hire Vehicles and in response to requests from trade representatives to allow for an extension to the age requirements of cleaner less polluting vehicles. The proposed Policy has been amended and consideration continues to be made to ensure that the revisions to the age requirements of the Policy continues to have a positive effect of further reducing levels of air pollution.

## 7. Background

- 7.1. The existing Hackney Carriage and Private Hire Licensing Policy came into effect on the 1 April 2019 and is due to expire on 31 March 2023. As a result, Officers sent notification of an informal consultation to the trade inviting submissions about possible amendments that Trade representatives would like to be included within the revised policy. This was sent out by email to the trade on 10 May 2022 and closed on 18 May 2022, see **Appendix A**.
- 7.2. Submissions were received and officers considered the comments made along with the additional proposals. A summary of the submissions can be found at **Appendix B** and the individual responses can be found at **Appendix C** documents 1 to 17.

- 7.3. The Policy was then revised taking into account the changes in guidance and legislation and in consideration of the officers' summary of the comments made by Trade representatives. The revised policy can be found at **Appendix D**, this document will form the basis of the formal consultation.
- 7.4. 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.
- 7.5. 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.

## 8. Conclusions

- 8.1. It is proposed that the consultation process will be for a 10 week period from 27 June 2022 to 4 September 2022 to receive responses. The outcome of the consultation will inform the revision of the Policy and the Committee will have the opportunity to consider this at a future meeting.

### List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

- Town Police Clauses Act 1847
- Local Government Act 1972 [Local Government Act 1972 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1972/24)
- Local Government (Miscellaneous Provisions) Act 1976
- Equality Act 2010 [Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/15)
- Report of the 'Independent Enquiry into Child Sexual Exploitation in Rotherham 1997 – 2013' Alexi Jay OBE, published August 2014 [independent-enquiry-into-child-sexual-exploitation-in-rotherham](https://www.independent.gov.uk/independent-enquiry-into-child-sexual-exploitation-in-rotherham)
- Department for Transport, Statutory Taxi and Private Hire Vehicle Standards July 2020 [Statutory & Best Practice Guidance for taxi and PHV licensing authorities \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90442/statutory-taxi-and-phv-licensing-authorities)
- Department for Transport, Access for wheelchair users to Taxis and Private Hire Vehicles – Statutory Guidance [uksiod\\_20170342\\_en.pdf \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2017/0342/en/pdf)
- Safeguarding Vulnerable Groups Act 2006 [Safeguarding Vulnerable Groups Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2006/16)
- Department for Education, Home to school travel and transport statutory guidance 2014 [Home-to-school travel and transport - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274441/home-to-school-travel-and-transport-statutory-guidance-2014)
- Local Government Association, Councillor Handbook: Taxi and Private Hire Licensing 20 July 2021 [Councillor Handbook: Taxi and PHV Licensing | Local Government Association](https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing)
- Information Commissioners Office, Guide to the General Data Protection Regulation, The Data Protection Act 2018 [Lawful basis for processing | ICO](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr)

- Department for Transport Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 [Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2022/12/contents)
- Department for Transport Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, Statutory Guidance [Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Act 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115448/tphv-act-2022-statutory-guidance.pdf)
- Hackney Carriage and Private Hire Licensing Policy 2019 to 2023  
<https://shropshire.gov.uk/media/12328/hcph-licensing-policy-2019-2023.pdf>
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**Cabinet Member (Portfolio Holder)**

Councillor Ed Potter, Deputy Leader, Economic Growth, Regeneration and Planning

**Local Member**

Not applicable – report has county wide application

**Appendices**

**Appendix A** – Informal Consultation email to the Trade

**Appendix B** – Officer Summary of Informal Consultation Responses

**Appendix C** – Individual Informal Consultation Responses

**Appendix D** – Proposed Hackney Carriage and Private Licensing Policy 2023 to 2027