



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) which has been updated taking into account the Council's priorities, representations made by the hackney carriage and private hire trade and changes in legislation.

### **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. In addition, ongoing improvements in licensing practices and procedures need to be embedded within the Policy to further strengthen the application process and simplify this where possible, whilst maintaining the foundations for robust enforcement to continue to increase compliance across the hackney carriage and private hire trade.
- 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.
- 2.3. This report sets out the proposed Hackney Carriage and Private Hire Licensing Policy 2023 to 2027 and highlights those matters that have led to the most significant proposed changes.

### **3. Recommendations**

- 3.1. That the Strategic Licensing Committee considers all the responses submitted during the consultation period as set out in **Appendix A** and notes the officer's summary as set out in **Appendix B**.
- 3.2. That the Strategic Licensing Committee agrees, with any necessary modifications, that the proposed 'Hackney Carriage and Private Hire Policy 2023 – 2027' as set out in **Appendix C** be reported to Cabinet for further consideration and a final decision with respect to adoption and implementation.

## REPORT

### 4. Risk Assessment and Opportunities Appraisal

- 4.1. 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.
- 4.2. 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.
- 4.3. 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.
- 4.4. 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.
- 4.5. 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.
- 4.6. The Policy significantly increases the criteria that must be satisfied before a person will be deemed a 'fit and proper person'. Drivers of hackney carriage or private hire vehicles, private hire operators and those who hold a vehicle licence as a vehicle proprietor will continue to be required to meet the robust criteria that was implemented in 2019. This criteria has been further enhanced by the inclusion of the standards which will be applied to each application.
- 4.7. 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

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<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 came into effect on 31 May 2022 and the revised policy has incorporated the requirements.

- 4.8. The Equality Act 2010 (the Act) and the DFT Access for wheelchair users to Taxis and Private Hire Vehicles – Statutory Guidance published on the 20 June 2022 has put significant additional responsibilities on operators and drivers of passengers with disabilities to ensure that the passengers needs are fully supported throughout their journey. Furthermore, there are additional requirements for the Council to maintain a list of designated wheelchair accessible vehicles and to have a process for which drivers can apply for a medical exemption from the duties imposed by the Act.
- 4.9. Unlike the Licensing Act 2003 and the Gambling Act 2005, the legislation that specifically controls the licensing of Hackney Carriages and Private Hire does not contain provisions that directly require the Council to prepare and publish a hackney carriage and private hire licensing policy in a particular manner.
- 4.10. 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.
- 4.11. 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.
- 4.12. 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.
- 4.16 An Equality, Social Inclusion and Health Impact Assessment (ESHIA) has been undertaken, utilising evidence already held by the service area and the results of the public consultations.
- 4.17 The Council has utilised the ESIIA in order to consider children and young people who are looked after by Shropshire Council and the families of children in need, when considering the Protected Characteristic grouping of 'Age', and with respect to adults with care and support needs, e.g. adults with learning disabilities, when considering the Protected Characteristic grouping of 'Disability'
- 4.18 For all the nine Protected Characteristic groupings, the impact is rated as positive; notably, with respect to the 'age', 'disability', 'race' and 'sex', where the impact is anticipated as 'medium positive'. The impact is also rated as 'medium positive' for people for whom there are safeguarding concerns, given the greater ability of the Council to fully demonstrate that it robustly tackles exploitation, abuse, modern slavery and human trafficking of children and vulnerable adults, and the likely improvements overall to public safety under the proposed changes, bringing particular benefits for vulnerable households. As such, this relates to the tenth groupings we seek to think about in Shropshire, of 'social inclusion'.
- 4.19 Note, however, that except for 'age', 'disability', 'race' and 'sex', the impact is likely to be neutral – neither positive nor negative – with no anticipated need to take actions to mitigate or enhance the impact. The full ESHIA document can be found at **Appendix D**.

## 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.
- 6.4. It should be noted that on the 1 April 2021 the Council required all hackney carriage vehicles to be wheelchair accessible and due to the nature of the type of vehicles they are, there are a limited number of less polluting vehicles available. Therefore, considering feedback from the trade, limited availability and production lead times for electric wheelchair accessible vehicles a separate section of the policy has been included to allow for an extended time for proprietors to replace their vehicles.

## 7. Consultation

- 7.1 A public consultation in respect of the proposed policy was undertaken over a 10-week period from 27 June 2022 to the 4 September 2022. The consultation welcomed and encouraged all interested parties to provide feedback in relation to the content of the whole policy and did not ask specific consultation questions, other than to ask generally for improvements that could be made to the policy, which would support hackney carriage and private hire businesses.
- 7.2 There were 26 individual responses to the consultation full details of the responses, together with the feedback from the 'Taxi Forum' held on the 18 August 2022, have been analysed and officer comments and explanatory notes recorded. The consultation responses can be found at **Appendix A** and the officers comments can be found at **Appendix B**.

- 7.3 A substantial amount of the responses were concerned with the Age and Emissions section of the Policy and trade representatives requested an extension to the time they were allowed to licence their vehicles. Significant concerns were raised around the additional financial burdens and the inability of drivers and proprietors to gain sufficient return on their investment when purchasing replacement vehicles. As a result, changes were made to extend the time vehicles could be licenced. In addition, and as a direct request taken from the Taxi Forum a separate section has been included in the Policy for wheelchair accessible vehicles to continue to be licensed for a longer period than was originally proposed; however, the overarching principles that aim to continue to reduce the adverse impact of vehicle emissions on both the environment and the health of people in our communities are retained.

## 8. Background

- 8.1. 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.
- 8.2. Submissions were received and officers considered the comments made along with the additional proposals.
- 8.3. The Policy was then revised taking into account the changes in guidance and legislation and in consideration of the officers' summary of the informal comments made by Trade representatives.
- 8.4. The revised policy was then formally consultation upon for a 10-week period from 27 June 2018 to the 4 September 2022.

## 9. Conclusions

- 9.1. 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.
- 9.2. 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.

**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)

- 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-inquiry-into-child-sexual-exploitation-in-rotherham](https://www.independent-inquiry-into-child-sexual-exploitation-in-rotherham.org.uk/)
- Department for Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guide, March 2010 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212554/taxi-private-hire-licensing-guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf)
- 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/92322/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)
- 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/292222/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/topics/licences-regulations-and-trading-standards/new-national-register-taxi-and-private-hire)
- 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://www.legislation.gov.uk/ukpga/2022/12)
- 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/101222/taxis-and-private-hire-vehicles-safeguarding-and-road-safety-act-2022-statutory-guidance)
- National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3) <https://www.local.gov.uk/topics/licences-regulations-and-trading-standards/new-national-register-taxi-and-private-hire>
- Hackney Carriage and Private Hire Licensing Policy 2019 to 2023 <https://shropshire.gov.uk/media/12328/hcph-licensing-policy-2019-2023.pdf>
- Finance Bill 2021, Tax Conditionality [New tax checks on licence renewal applications - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/92322/new-tax-checks-on-licence-renewal-applications)

**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** – Individual Consultation Responses
  - **Appendix B** – Officer Summary of Consultation Responses
  - **Appendix C** – Proposed Hackney Carriage and Private Licensing Policy 2023 to 2027
  - **Appendix D** – Equality, Social Inclusion and Health Impact Assessment (ESHIA)