



<u>Committee and Date</u>
Cabinet
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<u>Item</u>
<u>Public</u>

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

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1. Synopsis

This report sets out the proposed Hackney Carriage and Private Hire Licensing Policy 2023 to 2027, 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 and national guidance.

2. Executive Summary

- 2.1. The Council's existing Hackney Carriage and Private Hire Licensing Policy ('the Policy') came into effect on 1 April 2019 and will cease to have effect on the 31 March 2023.
- 2.2. Since April 2019 changes have been made to national guidance and legislation in relation to the administration of the hackney carriage and private hire licensing regime. In addition, ongoing improvements to licensing practices and procedures need to be embedded within the Policy to further strengthen the application process and, where possible, to simplify this, whilst also maintaining the foundations for robust enforcement in order to continue to improve the levels of compliance across the hackney carriage and private hire trade.
- 2.3. The Policy requires updating to reflect the Council's priorities and outcomes, in particular in relation to protecting people from harm, promoting health, managing the environment and helping people to help themselves.
- 2.4. In accordance with the resolution passed by the Strategic Licensing Committee on the 5 October 2022, this report sets out the proposed Hackney Carriage and Private Hire Licensing Policy 2023 to 2027

(‘the proposed Policy’) for further consideration and a final decision with respect to adoption and implementation.

3. Recommendation

- 3.1. That Cabinet approves, with any necessary modifications, the proposed Hackney Carriage and Private Hire Licensing Policy 2023 to 2027, as set out in Appendix 1, and agrees that it is adopted by the Council and implemented with effect from the 1 April 2023.

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. It specifically takes account of the Council’s safeguarding responsibilities, particularly in relation to children and adults, including those with care and support needs.
- 4.2. The Department for Transport (DfT) has developed the Statutory Taxi and Private Hire Vehicle Standards¹ (‘the Statutory Standards’). The Statutory Standards introduced a set of core minimum standards to improve regulation of the taxi and private hire vehicle sector. The proposed Policy incorporates the requirements set out in the Statutory Standards.
- 4.3. 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 were implemented in 2019. These criteria have now been further enhanced by the inclusion in the proposed Policy of the requirements set out in the Statutory Standards.
- 4.4. The criteria that must be met continues to be informed by the outcomes and recommendations from previously referenced inquiries into child sexual exploitation; this includes the recently published ‘Report of the Independent Inquiry - Telford Child Sexual Exploitation’, as well as taking into account the wider implications of

¹ 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)

exploitation generally, including modern slavery and human trafficking.

- 4.5. The Department for Transport Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022² and associated guidance³ 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 local authorities about the circumstances surrounding any refusal, suspension or revocation before a determination is made on an application. The new duties came into effect on 31 May 2022 and the requirements are now incorporated into the proposed Policy.
- 4.6. The Equality Act 2010 and the DfT 'Access for Wheelchair Users to Taxis and Private Hire Vehicles – Statutory Guidance' published on the 20 June 2022 has placed significant additional responsibilities on operators and drivers of passengers with disabilities to ensure that passenger needs are fully supported throughout their journey.
- 4.7. Furthermore, additional duties are placed on the Council to maintain a list of designated wheelchair accessible vehicles and to have a process for which drivers may apply for a medical exemption from the duties imposed by the Act. The Council voluntarily introduced a list of designated wheelchair accessible vehicles in 2018 and has maintained this list in accordance with, what is now, a mandatory duty, as well as continuing to have a medical exemption process in place.
- 4.8. Unlike the Licensing Act 2003 and the Gambling Act 2005, the legislation that specifically controls the licensing of hackney carriages and private hire activities 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.
- 4.9. 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

² 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)

³ 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)

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 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 and Social Care Ombudsman;
 - judicial review; and
 - legal challenge to any criminal proceedings instituted by the Council.
- The reputation and professionalism of the Council would 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

- 4.15. Whilst there is no specific legal duty 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 DfT 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010). [It should be noted that the DfT has recently consulted on revisions to the Best Practice Guidance, the outcome of which is yet to be published.]
- 4.16. Consultation with the trade and other stakeholders has been overseen by the Council's Strategic Licensing Committee. The Committee has considered all feedback received. Full details are available in the Strategic Licensing Committee reports that can be found at the web links listed below:
- Strategic Licensing Committee meeting held on 22 June 2022 at Agenda Item 6 [Agenda for Strategic Licensing Committee on Wednesday, 22nd June, 2022, 10.00 am — Shropshire Council](#)
 - Strategic Licensing Committee held on 5 October 2022 at Agenda Item 6 [Agenda for Strategic Licensing Committee on Wednesday, 5th October, 2022, 10.00 am — Shropshire Council](#)
- 4.17. Full details of the consultation process that has been undertaken, are set out in the '*Specific consultation and engagement with intended audiences and target groups for the service change*' section of the ESHIA at Appendix 2. A summary of the key points from the consultation process are set out in paragraphs 4.18 to 4.21 below.
- 4.18. A short period of informal engagement with the hackney carriage and private hire trade was undertaken between 10 and 18 May 2022, during which time initial feedback from the trade on potential amendments to the current Policy were received and considered by officers, together with changes to national guidance and legislation. An initial draft of a revised Policy was then subject to full public consultation over a 10-week period from 27 June 2022 to 4 September 2022; this also included a face-to-face 'Taxi Forum' meeting on 18 August 2022.
- 4.19. The public consultation welcomed and encouraged all interested parties to provide feedback, asking generally for improvements that could be made to the revised Policy, which would support hackney carriage and private hire businesses.

⁴ Further details available in the Equality, Social Inclusion and Health Impact Assessment (see section headed '*Identification of likely impact of the service change in terms of other considerations including climate change and economic or societal impacts*') in Appendix 2

- 4.20. There were 26 individual responses to the public consultation. Full details of the responses, together with the feedback from the 'Taxi Forum', have been analysed and officer comments and explanatory notes recorded.
- 4.21. The majority of responses were concerned with the 'Age and Emissions' section of the proposed 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, resulting directly from a request taken from the Taxi Forum, a separate section has been included in the proposed 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.
- 4.22. An Equality, Social Inclusion and Health Impact Assessment (ESHIA) has been undertaken and is available at Appendix 2.
- 4.23. The Council has utilised the ESHIA 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'.
- 4.24. For all 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'.
- 4.25. 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.
- 4.26. With respect to health, mental health and wellbeing, including an individual's ability to improve their own health and wellbeing and

the impact on the social, economic and environmental living conditions, it is anticipated that there will be a medium positive impact. It is anticipated that there will be a neutral impact on the demand for and access to health and social care services.

5. Financial Implications

- 5.1. There are no direct financial implications for the Council as a result of the recommendation set out at paragraph 3 above. The impact is on existing staff resources that have already been utilised to produce the proposed Policy. In addition, appropriate staffing will be required to ensure effective implementation and enforcement over the next four years which will be managed through existing staff resources. The majority of staffing costs are recovered through the licensing fees that are set annually by the Council.
- 5.2. It should, however, be noted that whilst the number of hackney carriage and private hire licences issued by Shropshire Council appears to be recovering following the impact of the pandemic, there are concerns that the current economic position may adversely impact this recovery. This is potentially leading to fluctuations in licence fee income that is making accurate forecasting more challenging than in previous years. This is being closely monitored and currently managed as part of the overall Business and Consumer Protection Service budget.

6. Climate Change Appraisal

- 6.1. Motor vehicle emissions represent around 40% of Shropshire's current carbon footprint and continue to be the primary cause of poor air quality and this has significant adverse implications for both climate change and human health. The Council needs to continue to promote measures that help to decarbonise transport and improve air quality, including reducing the emissions from hackney carriages and private hire vehicles.
- 6.2. The Council 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. The importance of continuing to reduce harmful emissions from hackney carriage and private hire vehicles is recognised; however, requests from trade representatives to allow an extension to the age requirements of less polluting vehicles has been accepted and

the proposed Policy includes amendments to reflect this position, whilst also ensuring that the Council continues to promote mechanisms that reduce levels of air pollution.

- 6.4. Taking account of the decision on 1 April 2021, where the Council required all hackney carriage vehicles to be wheelchair accessible, feedback from the hackney carriage trade has been considered and it is recognised that there is limited availability of less polluting wheelchair accessible vehicles, and this is being compounded by production lead times for electric wheelchair accessible vehicles. For these reasons, a separate section has been included in the proposed Policy, which provides for an extended period for proprietors to replace wheelchair accessible hackney carriage vehicles. This will help to balance the need to reduce climate change impacts alongside providing adequate and sustainable transport solutions for wheelchair users.
- 6.5. Whilst quantifying the impact is not possible, it is expected that the proposed Policy will, nevertheless, have a positive outcome on energy and fuel consumption; however, there will be no effect on renewable energy generation, carbon offsetting or mitigation and climate change adaptation.

7. Background

- 7.1. 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 ('the 1976 Act'). 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.
- 7.2. 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, proprietors and operators and that vehicles remain safe and fit for the purpose of transporting fare-paying passengers. The proposed Policy aims to continue to provide the foundation of this protection.
- 7.3. Through agencies working together and sharing information, the Council aims 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.

8. Additional Information

- 8.1. Unless there are specific reasons for an earlier review of the agreed Policy, it is anticipated that the next review will commence in the early part of 2026 for the next revision of the Policy to take effect from 1 April 2027.

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 [Town Police Clauses Act 1847 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1847/1)
- 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 [Local Government \(Miscellaneous Provisions\) Act 1976 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1976/24)
- Equality Act 2010 [Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/15)
- 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
- 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/91222/statutory-taxi-and-phv-standards-july-2020.pdf)
- 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/ukdsi/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/282222/home-to-school-travel-and-transport-statutory-guidance-2014.pdf)
- 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/lawful-basis-for-processing/)
- 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.pdf)
- 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/news/new-tax-checks-on-licence-renewal-applications)
- Independent Inquiry into Telford Child Sexual Exploitation, published 12 July 2022 [The Independent Inquiry into child sexual exploitation in Telford \(iitcse.com\)](https://www.iitcse.com/)

Cabinet Member (Portfolio Holder)

CLlr Richard Marshall, Cabinet Member for Highways and Regulatory Services

Local Member

Not applicable – report has county wide application

Appendices

Appendix 1 – Proposed Hackney Carriage and Private Licensing Policy 2023 to 2027

Appendix 2 – Equality, Social Inclusion and Health Impact Assessment (ESHIA)