



Strategic Licensing Committee

11 January 2024

Item

Public



Amendments to the Advertising Sections of the Hackney Carriage and Private Hire Licensing Policy 2023 – 2027

Responsible Officer:

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Cabinet Member (Portfolio Holder):

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1. Synopsis

To amend the advertising sections of the current Hackney Carriage and Private Hire Licensing Policy 2023 – 2027 to permit the national flag of the United Kingdom to be displayed on hackney carriages and private hire vehicles and to be used in the promotion of any private hire operator business or any other business offering a hackney carriage or private hire vehicle service.

2. Executive Summary

- 2.1. The Shropshire Plan, under the Healthy Economy priority, sets out a strategic objective that we will work with businesses in a fair and proportionate way, balancing regulatory requirements with business support viewed from our overriding objective of safeguarding public health and public safety.
- 2.2. The fundamental purpose of the Hackney Carriage and Private Hire Licensing Policy 2023 – 2027 ('the Policy') is to protect the safety and welfare of the public who live, work and visit Shropshire. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of Shropshire's local economy

is recognised; however, this is balanced against the need to protect the safety and welfare of the public. The Policy makes it clear that the latter is the over-riding principle that must be considered when matters are dealt with under the Policy. It is also a requirement of the Government's (Department for Transport) Statutory Taxi and Private Hire Vehicle Standards ('the Statutory Standards') that when formulating a taxi and private hire vehicle policy, the primary and over-riding objective must be to protect the public.

- 2.3. To maintain a neutral position in relation to all countries/nations, religions, beliefs and movements, the Policy currently prohibits the use of any flags in advertising or branding on hackney carriages and private hire vehicles or in the advertising of any private hire operator's business.
- 2.4. The current prohibition on the use of all flags may be considered a disproportionate regulatory requirement on hackney carriage and private hire vehicle proprietors and on private hire operators. As a result, it is held not to be unreasonable that consideration is given to amending the Policy to permit proprietors to display flags on their vehicles where this forms part of their business plan to promote their hackney carriage and private hire activities and to also permit private hire operators to use flags to promote and advertise their businesses.
- 2.5. It is, however, acknowledged that under the Policy and the Statutory Standards the safety and welfare of the public is the over-riding priority. For this reason, it remains a necessity to continue to regulate the extent to which flags may be displayed on hackney carriages and private hire vehicles. This is to ensure visibility through windows is not restricted, the public and enforcement officers can clearly see inside vehicles, and important licensing information, including licensing plate details, which identify vehicles and drivers are not obscured.
- 2.6. Consequently, whilst it may appear more reasonable to permit the display/use of any flag, it is considered proportionate to permit the display of only the national flag of the United Kingdom, the Union Flag; no other flags or emblems will be allowed. The display of the Union Flag will not be mandatory; it will be for each hackney carriage and private hire vehicle proprietor and private hire operator to determine whether to display the flag on their vehicle or in any advertising/promotion of their business. However, if the Union Flag is displayed on a vehicle, it will be restricted to one and subject to positioning and dimension specifications for the purposes of ensuring public safety.
- 2.7. Despite the proposed restrictions on the display of the Union Flag, it should also be acknowledged that potential passengers may be concerned for their own safety should they find that a hackney carriage or private hire vehicle they intend to hire is displaying the Union Flag. This is due to its known appropriation by those with nationalist and right-wing sentiments. It may also lead to an economic impact in that passengers may decide to cancel their original booking and look to find a different driver/vehicle to fulfil their transport needs. Given the hackney carriage and private hire trade already face an ongoing challenge to fulfil demand, (which is a national, as well as a local problem), there is a risk that passengers may be unable to readily secure a replacement driver/vehicle at short notice. This may increase safeguarding risks and adversely impact public safety if, for example, passengers are vulnerable through inebriation or unable to attend medical appointments. In addition, the economic impact may extend beyond individual

drivers into the wider local economy if, for example, passengers are unable to reach their destinations to shop or access leisure and hospitality services.

3. Recommendation

- 3.1. That the Committee approves, with any necessary amendments, the changes to the advertising sections of the Hackney Carriage and Private Hire Licensing Policy 2023 – 2027, as set out at **Appendix 1 (column C)**, to take effect from 12 January 2024, and instructs the Head of Business and Consumer Protection to arrange for the amendments to be made and to publish the Policy containing the revised provisions as soon as is reasonably practicable.

Report

4. Risk Assessment and Opportunities Appraisal

- 4.1. Shropshire Council's Licensing Officers work in partnership with their counterparts at Telford & Wrekin Council, City of Wolverhampton Council and South Staffordshire Council. There is an active Joint Local Authority Partnership Group with senior officer representation from each local authority. The Partnership is mindful of variation between individual local authority policies as this can increase the risk that vehicle proprietors and drivers may choose to be licensed by a local authority where they prefer the conditions that one authority offers above those offered by the local authority where the driver/proprietor is likely to undertake most of their journeys. This can lead to less effective and inefficient enforcement in each local authority area, which then increases the challenges for all in terms of driving up compliance with standards that are aimed at protecting the safety of the public.
- 4.2. There are legitimate reasons for neighbouring local authority hackney carriage and private hire licensing policies not to completely align due to specific local factors; however, generally, where it is feasible, alignment of policy requirements is a positive step. It is a factor that can influence the choice made by vehicle proprietors and drivers in terms of which local authority they seek to apply for a licence.
- 4.3. Shropshire Council's current prohibition relating to the display of flags on hackney carriages and private hire vehicles and in relation to the use of flags to advertise any private hire operator's business is explicitly clear and aligned with the position maintained by Telford & Wrekin Council. Alignment with the policy adopted by the City of Wolverhampton Council (which is also the policy that applies in South Staffordshire) is not as clear with the wording that relates to advertising being such that the display of flags may be a consideration depending on individual circumstances.
- 4.4. By permitting the Union Flag to be displayed on vehicles licensed by Shropshire Council, thereby removing the blanket prohibition, there is a risk that proprietors

and drivers who do not generally operate in Shropshire may decide to apply for a licence from Shropshire Council if they specifically want to be able to display the Union Flag on their vehicles. The consequence of this is that there is additional work for Shropshire Council's Licensing Team to administer the licensing process and the local authority in whose area the vehicles/drivers actually operate is unable to take enforcement action, without the intervention of Shropshire Council, as there is no contravention of that other authority's conditions of licence. In addition, it potentially undermines the work of the Joint Local Authority Partnership Group and is likely to lead to an increase in workload across all the local authorities involved, impacting upon staffing resources.

- 4.5. It is clearly good practice to consult on any changes that the Council plans to make and this has been the approach adopted over the previous decade on any hackney carriage and private hire related policy changes. This has achieved an increasingly positive and collaborative approach with the trade (and other key stakeholders), which has made the implementation of revised policies more effective and efficient.
- 4.6. Under the Statutory Standards, there is an obligation to consult on proposed changes to licensing rules that may have significant impacts on passengers and/or the trade. There is no existing evidence to guide the Council in determining whether the proposed change to permit the Union Flag to be displayed on licensed vehicles is one that would or would not have significant impacts, whether they are negative or positive. This is compounded by the fact that there has currently been no formal consultation in respect of the proposed change, which, if undertaken, would give some indication of the level of any impact.
- 4.7. There has been engagement with Cabinet elected members and the Chair of the Strategic Licensing Committee, together with the hackney carriage proprietor who raised the initial concern about the prohibition on the display of flags; however, no formal public consultation has been undertaken with the wider hackney carriage and private hire trade, the public/passengers or other key stakeholders. Consultation was undertaken in relation to the current Policy, during which no feedback was received about the introduction of the provisions relating to the prohibition on displaying flags on licensed vehicles or in relation to the advertising of private hire operator businesses.
- 4.8. The hackney carriage and private hire trade has been notified that the proposed change would be presented to the Strategic Licensing Committee and directed towards the web page link for this meeting. In addition, a press release was issued in an attempt to raise wider awareness of the proposed change and to highlight the opportunity for individuals to ask public questions at the Committee meeting.
- 4.9. An Equality, Social Inclusion and Health Impact Assessment (ESHIA) has been carried out with regard to the proposed service change and is produced at **Appendix 2**. The key outcomes of the ESHIA are set out in paragraphs 4.10 to 4.14 below.
- 4.10 For six out of the nine Protected Characteristic groupings defined in the Equality Act 2010, the impact is likely to be neutral – neither positive nor negative – with no anticipated need to take actions to mitigate or enhance the impact.

- 4.11 However, with respect to Race the impact is likely to be medium negative and for both Religion or Belief and our tenth category in Shropshire of Social Inclusion, the impact is likely to be low negative. There is also intersectionality between these groupings, which may mean that for people in the grouping of Religion or Belief, and Social Inclusion, the impact may overall be medium negative. The Union Flag has, unfortunately, been appropriated at national level by people and organisations exhibiting and representing nationalistic and/or right-wing sentiments. For people in these groupings who are potential passengers, there may be a perceived threat to their personal safety, were they to be passengers in vehicles displaying the Union Flag. There is also potential for families and households who have settled in Shropshire, as a consequence of their refugee status, to feel alienated rather than welcomed. This would mean that overall, the Council could be considered as acting against the national equality aims, which are: eliminating discrimination, harassment and victimisation; advancing equality of opportunity; and fostering good relations.
- 4.12 With respect to the Race and Religion or Belief Protected Characteristics, there will be ongoing dialogue, as required, with West Mercia Police, particularly around any hate crime allegations/incidents linked to the display of the Union Flag or where prohibited flags are displayed in contravention of the Policy and conditions of licence. This will also occur as a result of the ongoing role that Police Officers play in the review process applicable to new licence applications and existing licences.
- 4.13 Applicants and licence holders, including any who may not already be aware of the change to the Policy, will be made aware through normal licensing processes. It is considered that there is the potential for people who are in this grouping to themselves articulate a desire to visibly demonstrate their race, religion or belief through the use of flags of other nations or other symbols of religious and/or national observations. They may consider themselves to be facing a negative equality or human rights impact if they cannot display such flags or symbols.
- 4.14 Proactive and visible enforcement of the revised requirements of the Policy and in relation to the conditions of licence applicable to both hackney carriages and private hire vehicles will help to mitigate the anticipated negative impacts relating to race, religion or belief and social inclusion.

5. Financial Implications

- 5.1. There are no direct financial implications relating to the recommendation in this report.
- 5.2. There will be staffing resources required to make the changes to the Policy and to enforce the revised requirements across the licensed hackney carriage and private hire vehicle fleet. It is anticipated that this will be managed within the current Business and Consumer Protection Service budget.

6. Climate Change Appraisal

- 6.1. There are no anticipated climate change outcomes expected as a result of the proposed change to the Policy insofar as it relates to:
- energy and fuel consumption;
 - renewable energy generation;
 - carbon offsetting or mitigation; or
 - climate change adaptation.

7. Background

- 7.1. The current version of the Policy was adopted by Cabinet on 30 November 2022 and implemented on 1 April 2023. This introduced a provision prohibiting the display of flags in any advertising or branding displayed on a hackney carriage and private hire vehicle and in relation to the advertising of private hire operator businesses.
- 7.2. In drawing up the Policy, comparisons with neighbouring local authority comparable policies were undertaken and there was a short period of informal engagement directly with the hackney carriage and private hire trade from 10 to 18 May 2022, which informed the draft upon which the full formal public consultation was based. The formal consultation was undertaken between 27 June 2022 and 4 September 2022, which included a face-to-face 'Taxi Forum' meeting held on the 18 August 2022. The process was overseen by the Strategic Licensing Committee and is set out in the Committee reports that were presented on 22 June 2022 and 5 October 2022, together with the final report that was presented to Cabinet on 30 November 2022. The links to the relevant meeting and reports are listed below:
- [Agenda for Strategic Licensing Committee on Wednesday, 22nd June, 2022, 10.00 am — Shropshire Council](#) – see Agenda Item 9
 - [Agenda for Strategic Licensing Committee on Wednesday, 5th October, 2022, 10.00 am — Shropshire Council](#) – see Agenda Item 18
 - [Agenda for Cabinet on Wednesday, 30th November, 2022, 10.30 am — Shropshire Council](#) – see Agenda Item 90
- 7.3. During the engagement and consultation process, no feedback was received about the provisions relating to the display of flags on vehicles or the use of them to advertise a private hire operator's business.
- 7.4. In November 2023, a concern about the prohibition on the display of flags was raised by one hackney carriage proprietor who was found to be displaying several flags/emblems on their vehicle, which was in direct contravention of their hackney carriage vehicle conditions of licence and the Council's Policy.

- 7.5. The actions taken by the Council’s Licensing Team to address the contravention led to significant media attention, and as a result, complaints were received. The majority of the complaints came from individuals who had no connection with Shropshire or the hackney carriage/private hire trade. The one contact that did come from a Shropshire licensed driver indicated support for the prohibition on the display of flags on licensed vehicles. A Shropshire Member of Parliament also contacted the Council expressing support for the individual proprietor who had been found in contravention of their conditions of licence and requested that the Council amend its Policy to permit the displaying of flags on vehicles.
- 7.6. It is reported that a number of verbal reports have been made supporting a change in the Policy to allow flags to be displayed on hackney carriage and private hire vehicles. Officers are given to understand that these are with regard to the Union Flag and to the England national flag (St George’s Cross); however, it is acknowledged that that this is anecdotal and may extend to other national flags such as those for Ukraine and Wales.

8. Conclusions

- 8.1. It is strongly advised that this policy is kept under review for any anticipated or unforeseen negative impacts.

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

[Hackney Carriage and Private Hire Licensing Policy 2023 - 2027](#)

[Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](#)

Local Member: The proposed Policy change is applicable to the whole of Shropshire.

Appendices

Appendix 1 - Current policy wording and proposed changes

Appendix 2 - Equality, Social Inclusion and Health Impact Assessment