

Report to: **Licensing Committee**

Date: **17th November 2022**

Title: **Hackney Carriage and Private Hire Policy –
The Statutory taxi and private hire vehicle
standards**

Portfolio Area: **Customer First**

Wards Affected: **all**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Full Council on
15th December 2022**

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RECOMMENDATIONS:

- 1. That the Licensing Committee notes the content of the Department for Transport Statutory Taxi and Private Hire Vehicle Standards (the DFT Standards).**
- 2. That the Licensing Committee considers the following proposed changes to the Hackney Carriage and Private Hire Policy:-**
 - a) Appendix A is amended to align the Hackney Carriage and Private Hire Licensing Criminal Convictions Policy with the 'Institute of licensing – Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades';**
 - b) That applications are reviewed against the National Register of Revocations and Refusals (Part 1 Para 10.9);**
 - c) Referral to the barred list where the individual is thought to present a risk of harm to a child or vulnerable adult (Part 1 Para 10.11);**
 - d) Introduction of a requirement for a tax conditionality check as part of the application process (HMRC requirement from 4th April 2022);**

- e) **Amendment of the notification period for Licence Holders/ Applicants to notify the Licensing Authority of arrest/ conviction/ caution Etc from 5 days to 48 hours;**
- f) **Introduction of a requirement for vehicle proprietors to provide a basic DBS certificate as part of the application process (Part 2 Para 26.1);**
- g) **Introduction of a mandatory requirement to display a "How to complain" sticker within Licenced vehicles (Part 2 para 28.4);**
- h) **Introduction of a requirement from 1st April 2023 for private hire operators to obtain a basic DBS disclosure certificate for all controllers (call handling and dispatching staff), and have a written policy on employing ex-offenders (Part 2 Paras 41.6-41.7);**
- i) **Introduction of additional record keeping requirements for private hire operators from 1st April 2023 (Part 2 para 48.1);**

3. That the Licensing Committee recommends to Council that the draft Hackney Carriage and Private Hire Policy, as amended, is adopted at the meeting on 15th December 2022.

1. Executive summary

- 1.1 The DFT Standards published in July 2020, set out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable. The Department for Transport has stated that it expects the recommendations in the Statutory Standards to be implemented unless there is a compelling local reason not to.
- 1.2 One of the main requirements of the DFT Standards, is that Licensing Authorities should have a cohesive taxi and private hire policy document with a minimum review of every 5 years. As members of the Committee will be aware, the authority has already produced a consolidated policy document that can be used by the Committee, Officers, licensees and members of the public as a single point of reference. The Policy was last reviewed in 2018, but requires amendment to reflect the changes advocated in the DFT Standards.
- 1.3 A copy of the proposed revised Policy is attached at Appendix A (all changes tracked for ease of reference). As the Policy was only reviewed last in 2018 the amendments required to comply with the DFT Standards are more limited than for many other Licensing Authorities. In particular, the current Policy already contained a requirement for driver licence holders to subscribe to the DBS update service, and mandatory safeguarding training.

- 1.4 A review of the main points from the DFT Standards and comparison with the current and proposed policy can be found at Appendix B. A copy of the DFT Standards is also attached at Appendix C.

2. Background

- 2.1 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. The DFT published such statutory guidance in July 2020.
- 2.2 This authority is expected to publish its consideration of the recommendations and measures in the standards, and 'must have regard' to the Standards when exercising Taxi Licensing functions. The Department of Transport will be monitoring all authorities and expects all the recommendations and measures to be implemented unless there is a compelling local reason not to. A review of the current Hackney Carriage and Private Hire Policy has been undertaken and amendments to ensure compliance with the DFT Standards have been proposed for approval by the Committee.
- 2.3 The focus of these minimum standards is on protecting children and vulnerable adults however all passengers will benefit from the recommendations, which aim to better regulate the hackney carriage and private hire sector. To a large extent, consideration and implementation of the Standards replaces the need to consider taxi standards on a local basis.

3. Outcomes/outputs

- 3.1 Legislation prescribes that the Council is empowered to adopt the Draft hackney Carriage and Private Hire Policy. Adoption cannot be delegated to the Licensing Committee.
- 3.2 The following timetable is proposed in respect of adoption of the Draft Policy:
- Licensing Committee approval of the Draft Policy and agreement to recommend to Council for adoption: 10th November 2022;
 - Draft Policy put before Council for approval: 15th December 2022;
 - Hackney Carriage and Private Hire Policy to be published: 1st January 2023;
 - Hackney Carriage and Private Hire Policy comes into effect: 1st February 2023;

4. Options available and consideration of risk

- 4.1 Failure to publish its consideration of the DFT Standards and have regard to them when exercising Taxi Licensing functions would

leave the Licensing Authority open to criticism for failing to follow statutory guidance.

4.2 Should the draft Policy not be adopted, the Council would therefore be open to criticism and potentially legal challenge.

4.3 The Committee may decide to direct that the draft Policy is amended further and brought back to a subsequent Committee meeting for approval, but any proposed changes must also have regard to the DFT Standards. Any decision to depart from the DFT Standards would require a compelling local reasoning.

4.4 The Committee may decide to put the proposed changes out to a public consultation, but as the proposed changes all relate to direction from the statutory guidance a public consultation has not been recommended in this instance.

4. Proposed Way Forward

5.1 That the Committee recommends to Council that the draft Hackney Carriage and Private Hire Policy, as amended, is adopted at the meeting on 15th December 2022.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>Section 177(1) of the Policing and Crime Act 2017 states that '[t]he Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm'. The Secretary of State for Transport published the attached guidance, 'Statutory Taxi and Private Hire Vehicle Standards' in July 2020. Section 177(4) states that '[a]ny public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.' Therefore, Licensing authorities are under a legal duty to have regard to the guidance.</p> <p>In publishing this document, The Secretary of State for Transport stated that 'licensing authorities will be expected to fully implement these measures as soon as possible. The department will closely monitor progress, work with authorities not meeting their responsibilities and look to introduce legislation if licensing authorities fail to adopt the standards and update their operations.'</p>

		Paragraph 2.8 of the Standards states 'although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence.'
Financial implications to include reference to value for money		The associated preparation and publication costs will be met in full from Taxi/ Private Hire applications and renewal fees income. Therefore, there are no financial implications to the Council from this report.
Risk		Failure to publish its consideration of the DFT Standards and have regard to them when exercising Taxi Licensing functions would leave the Licensing Authority open to criticism for failing to follow statutory guidance and potentially open to legal challenge.
Supporting Corporate Strategy		Strengthening Community well being
Climate Change - Carbon / Biodiversity Impact		No direct impact on delivering our climate change programme identified.
Comprehensive Impact Assessment Implications		
Equality and Diversity		There is the duty on Council when considering applications or enforcement action to comply with Human Rights Act 1998. Equality Impact Assessment carried out prior to publication.
Safeguarding		Protecting children and other vulnerable persons from being harmed or exploited is one of the key priorities of the DFT Standards.
Community Safety, Crime and Disorder		Preventing Taxis and private hire from being a source of crime or disorder, being associated with crime and disorder, or being used to support crime is one of the objectives of the DFT Standards.
Health, Safety and Wellbeing		
Other implications		

Supporting Information

Appendices:

Appendix A – Draft Hackney Carriage and Private Hire Policy

Appendix B – Comparison of DFT Standards with current and proposed Policy

Appendix C – Department for Transport Statutory Taxi and Private Hire Vehicle Standards

Background Papers:

- The Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades
- West Devon Borough Council Hackney Carriage and Private Hire Policy 2018.