

# Cheltenham Borough Council

Cabinet – 15 July 2014

## Review of Licensing Policy, Guidance and Conditions for Private Hire and Taxis

<b>Accountable member</b>	<b>Councillor Andrew McKinlay, Cabinet Member Development and Safety</b>
<b>Accountable officer</b>	<b>Mike Redman, Director of Environmental &amp; Regulatory Services</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>The Council's current Licensing policy, guidance and conditions for private hire and taxis ("taxi policy") was adopted by Council in October 2010.</p> <p>While there is no statutory requirement to undertake a review of the taxi policy, there is a commitment set out in the policy to do so at least once every three years to ensure the policy remains up to date and relevant.</p> <p>Cabinet approved a draft policy for consultation in November last year and is now asked to consider the consultation feedback and approval of the amended draft policy.</p>
<b>Recommendations</b>	<p><b>Cabinet is recommended:</b></p> <ol style="list-style-type: none"><li><b>1. To note the consultation comments received;</b></li><li><b>2. To adopt the amended draft policy as outlined in Appendix 2 including the adoption of a uniform colour for Hackney Carriage vehicles;</b></li><li><b>3. That subject to resolution 2, to approve further consultation on the colour and implementation date of the uniform colour scheme policy; and</b></li><li><b>4. To delegate authority to the Director of Environmental &amp; Regulatory Services, in consultation with the Cabinet Member of Development and Safety, to approve a colour and an implementation date for the uniform colour scheme policy following the further consultation.</b></li></ol>
<b>Financial implications</b>	<p>There are no financial implications arising from this report.</p> <p><b>Contact officer: Sarah Didcote, Sarah.Didcote@cheltenham.gov.uk, 01242 264 125</b></p>

<b>Legal implications</b>	<p>The Licensing Policy, Guidance and Conditions for Private Hire and Taxis will be produced pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on the council the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles. Neither Act requires the Council to review its policy. However, it is best practice to review the policy to ensure that it remains up to date and relevant.</p> <p><b>Contact officer: Vikki Fennell, Vikki.Fennell@tewkesbury.gov.uk, 01684 272015</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>No HR implications for this report.</p> <p><b>Contact officer: Richard Hall, Richard.Hall@cheltenham.gov.uk, 01594 812634</b></p>
<b>Key risks</b>	<b>As outlined in Appendix 1</b>
<b>Corporate and community plan Implications</b>	<p>Enhancing and protecting our environment</p> <p>Strengthening our economy</p> <p>Strengthening our communities</p>
<b>Environmental and climate change implications</b>	None – Emissions policy already in place to comply with EU emissions.
<b>Property/Asset Implications</b>	<p>None</p> <p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p>

## 1. Background

- 1.1 The Council's current licensing policy, guidance and conditions for private hire and taxis ("taxi policy" hereafter) was adopted by Council in October 2010.
- 1.2 Whilst there is no statutory requirement to undertake a review of the taxi policy, there is a commitment set out in the policy to do so at least once every three years to ensure the policy remains up to date and relevant.
- 1.3 Following approval by Cabinet to consult on an amended draft policy, Cabinet is now asked to consider the consultation feedback and the adoption of the amended draft policy.
- 1.4 Attached at **Appendix 2** is a copy of the amended policy and a breakdown of proposed changes at **Appendix 3**.

## 2. The Current Policy

- 2.1 The Council is responsible for the licensing and regulation of all hackney carriage and private hire drivers, vehicles and operators.
- 2.2 As part of its powers, the Council has a wide discretion to set policies in relation to the licensing and regulation of hackney carriage and private hire drivers, vehicles and operators.
- 2.3 As previously stated, there is no statutory requirement for the Council to have a taxi policy although it is common practice to do so. This is particularly relevant because the policy sets out how the Council intends to discharge its functions under the relevant legislation and also acts as a guide to Members, prospective applicants, licence holders and the wider public. It is thus important that this policy remains up to date and relevant.

## 3. Review of the Current Policy – Working Group

- 3.1 To facilitate the review and better engage with key stakeholders a taxi policy review working group was set up by the Licensing Committee. Members from the trade, Council officers and Councillors sat on the working group.
- 3.2 The working group met on five occasions to consider the proposed changes to the current policy. The feedback and recommendations from the working group have been incorporated in the amended policy.

## 4. Consultation

- 4.1 In November Cabinet approved a draft policy for consultation.
- 4.2 In accordance with recommended practice, a 12 week consultation has been undertaken. Attached at **Appendix 4** is a list of persons/organisations that were consulted for Members' information.
- 4.3 To facilitate the consultation, a consultation document was created for completion.
- 4.4 During the consultation, 5 responses were received. The small number of responses received is perhaps attributable to the fact that a working group was set up prior to consultation including representation from the licensed trade.
- 4.5 Responses were received from:
  - Mr David Stokes, Director of 727 Car Co (Private Hire Operator);

- Mr John Donoher, Hackney Carriage licence holder;
- Mr Jim Hoddell, Hackney Carriage licence holder;
- Susan Bushell, Guide Dogs for the Blind;
- Cheltenham Borough Council's Licensing Committee.

4.6 Copies of responses received are attached at **Appendix 5**.

## 5. Proposed Amendments

5.1 The more substantial proposed changes to the Council's current policy are outlined below. The more general re-organisation of the policy and factual corrections have not been noted below but are instead highlighted in grey and explained in the draft policy at **Appendix 2**.

### Uniform Colour for all Hackney Carriages

5.2 Apart from one respondent, there were no objections, in principle, to the Council adopting a uniform policy colour for all licensed Hackney Carriages.

5.3 Mr John Donoher stated in his response that the Council's uniform colour proposal is unreasonable. He commented that licensed Hackney Carriages are already distinguishable by the top light and licence plates and a single colour is not necessary as a result. He further commented that the public will in any event be unable to see the colour of a licensed vehicle at night. He finally commented that a single colour would also make it difficult for the Council to identify drivers following complaints if people were only able to recall the colour of the vehicle they travelled in.

5.4 Whilst the other respondents did not object to the principle of a uniform colour, they did comment on the choice of colour. Mr David Stokes mentioned that his business would be affected if the Council does adopt a uniform black colour for Hackney Carriages because the flip side of such a policy would be that Private Hire vehicles could not be black. Both the Licensing Committee and Mr Jim Hoddell also commented that black may not be the most suitable colour because it is hard to keep clean, more difficult to see by other road users and would have a particular detrimental effect on Private Hire operators.

5.5 The consultation document stated that the Council's reasons for seeking to impose a uniform colour policy was to:

1. clearly distinguish hackney carriages from other licensed vehicles; and
2. improve the appearance of the public hire licensed fleet.

5.6 The Council has made it clear that, should it adopt a uniform colour policy, to limit the impact of this proposal on the licensed trade, the implementation will be gradual as and when licensed vehicles are replaced.

5.7 On the basis that there was no significant objection to this proposal, officers recommend that Members approve the adoption of such a policy in principle. However, taking into account the comments relating specifically to the actual colour, officers recommend further consultation with the trade on the choice of colour and implementation date.

### Driver and Vehicle Standards Agency (DVSA) Assessment

5.8 Whilst there were no objections to the proposed introduction for a DVSA assessment for all new applicants, Members of the Licensing Committee did express some concern that this will place

additional costs on new applicants particularly because there is no DVSA assessment centre in the county. Currently the nearest test centres are located in Worcester, Redditch or Bristol.

- 5.9 Officers are aware of this, however, since the assessment is specifically designed for taxi and Private Hire drivers, officers do not consider this new requirement to be unjustified.
- 5.10 The current driver assessment test is undertaken by the county Council's driver assessment unit. However, the current assessment is not at the same standard as the DVSA assessment and it is not unreasonable in the interest of public protection to require new applicants to successfully complete this assessment.
- 5.11 It is therefore recommended that this requirement be adopted.

#### **Manufacturer's Recall of Motor Vehicles**

- 5.12 A Member of the Licensing Committee commented that this requirement appears to be over burdensome on licensed drivers by placing additional requirements on them. The Member suggested as an alternative that officers should consult online databases for this information instead of placing the onus on drivers.
- 5.13 Whilst officers acknowledge the point, there is no facility that officers are aware of that will notify the Council of vehicle recalls. It is clearly in the interest of public safety that the Council is aware of vehicle recalls and able to properly respond to this. Finally, officers do not consider that this requirement should be over burdensome on the basis that vehicle recalls are relatively rare on the whole and, given the frequency of vehicle replacements, most drivers may very well never be in a situation where their vehicle will be recalled.
- 5.14 It is therefore recommended that this requirement be adopted by way of a new condition attached to the licence conditions in respect of vehicle licences.

#### **Re-cut and Remoulded Tyres**

- 5.15 Members of the Licensing Committee commented that the "under very limited circumstances" in relation to this proposal be clarified. This has been done.
- 5.16 On the basis that there were no objections to this proposal, it is therefore recommended that this requirement be adopted.

#### **Advertising on Licensed Vehicles**

- 5.17 In addition to the revision of the current advertising policy, the Council also consulted specifically whether it should approve advertising associated with tobacco and alcohol products.
- 5.18 There were no comments in relation to the general overhaul of the advertising policy, but the Licensing Committee felt that the Council should not permit advertising associated with alcohol or tobacco products.
- 5.19 It is therefore recommended that the amended advertising policy be adopted including a ban on all advertising associated with alcohol or tobacco products.

#### **Other Proposals**

- 5.20 There were no comments in relation to the other proposals set out in the consultation document and it is therefore proposed that these be adopted. For the avoidance of doubt, these are:
- introduction of QR codes;
  - proposal to only accept annual insurance policies;

- a requirement on all licensed Private Hire Operators to have public liability insurance if their premises is open to the public;
- the revised interior measurement policy for vehicles;
- a requirement that the Council will only permit factory-fitted standard tints;
- the revised diabetes policy;
- the revised relevance of convictions policy;
- adoption of an intended use policy for the licensing of hackney carriage vehicles; and
- approval of rear loading wheelchair vehicles as suitable for licensing.

## **Other Comments**

### **English Proficiency Requirement**

- 5.21** Members of the Licensing Committee stated that the Council should adopt a requirement that all applicants provide evidence of their ability to understand and communicate in English as part of the Council's suitability criteria.
- 5.22** Officers have investigated the introduction of an English proficiency test. We have spoken to other licensing authorities who have such a requirement in place and the majority use a service called Versant.
- 5.23** Versant tests are completely automated tests of spoken and written languages using speech processing technology and knowledge analysis technologies that can be taken on a telephone or a computer and scores are available online within minutes. Feedback from other licensing authorities is positive and the test is versatile enough to be adapted for local needs in terms of acceptable proficiency level.
- 5.24** The fee associated with the Versant test is around £23.
- 5.25** In light of the above, it is recommended that the Council adopt an English proficiency requirement as set out above.
- 5.26** If adopted, the knowledge test will be amended to include a new English proficiency section.

### **Knowledge Tests**

- 5.27** Mr David Stokes commented that the Council should exempt Private Hire drivers from sitting the knowledge test. He argues that Private Hire drivers know their destination in advance of commencing the journey.
- 5.28** Whilst officers accept this, local knowledge accounts for only two sections of the knowledge test with the other sections including knowledge of licensing law, conditions, basic literacy & numeracy and Highway Code.
- 5.29** Apart from a local geographical knowledge, it is obviously important that Private Hire drivers have a firm knowledge in respect of the other aspects of the knowledge test and it is therefore not recommended that Private Hire drivers be exempt from taking the knowledge test.

### **CCTV**

- 5.30** Mr John Donoher suggested the Council should adopt a mandatory CCTV policy.
- 5.31** The introduction of such a policy was considered at the outset of this policy review but it was concluded that a mandatory CCTV policy is not necessary at this stage. The current adopted policy does permit vehicles installing CCTV, but leaves it to the judgement of the owners and drivers themselves. If owners or drivers do install a CCTV system, the law requires that they

display a notice on the vehicle to inform customers of this fact.

- 5.32 It is not proposed that a mandatory CCTV policy be adopted at this stage although officers will continue to monitor the need for such a policy.

### **Disability Awareness**

- 5.33 Sue Bushell, from Guide Dogs for the Blind, commented that there is no reference in the policy relating to a number of disability awareness issues. The said issues, apart from disability awareness training, are statutory requirements hence why they are not specifically mentioned in the policy. However, for the purpose of clarity, officers have added the points relating to the requirement to carry guide dogs, obtain medical exemption if unable to do so and that no additional charge can be levied for guide dogs.
- 5.34 In relation to the mandatory disability awareness training, the amended policy does state that it will be a condition of all licensed vehicles, where a vehicle is utilised for the carriage of passengers in a wheelchair, that "...the proprietor shall ensure that the driver has received sufficient training to load and convey wheelchair bound passengers."

## **6. Reasons for recommendations**

- 6.1 To ensure the policy remains up to date and relevant.

## **7. Performance management – monitoring and review**

- 7.1 The performance of this policy will be monitored by the Licensing Committee in terms of the decisions they make in promoting this policy and in terms of the policy's ability to promote its objectives.

## **8. Alternative options considered**

- 8.1 Members can resolve not to adopt the amended draft policy although this may result in an out of date and irrelevant policy and is therefore not recommended as a recommended course of action.

## **9. Equality Impact Assessment**

- 9.1 There is a requirement on the Council to consider equalities as part of its decision making process and the effect decisions will have on different groups in the community.
- 9.2 An equality impact assessment has been undertaken in relation to the draft new policy and it is not considered that the draft policy will disadvantage any groups in the community.
- 9.3 In particular, the Council is proposing to retain the requirement that all new public hire vehicles be wheelchair accessible. Furthermore, the Council is proposing to extend the use of wheelchair accessible vehicles by also allowing rear loading vehicles.

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<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Amended Draft Policy Statement</li> <li>3. Breakdown of Proposed Changes</li> <li>4. List of Consultees</li> <li>5. Responses Submitted</li> </ol>
<b>Background information</b>	<ol style="list-style-type: none"> <li>1. Officer's report and minutes from Cabinet, 12 November 2013</li> <li>2. Current Licensing Policy, Guidance and Conditions for Private Hire and Taxis Adopted by Council – October 2010</li> <li>3. Report and minutes of Licensing Committee – 5 April 2013</li> <li>4. HM Government Code of Practice on Consultation</li> <li>5. Part 2 - Local Government (Miscellaneous Provisions) Act 1976</li> <li>6. Town Police Clauses Act 1847</li> </ol>



The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If Cabinet fails to approve a review of this policy there is a risk that the policy will become out of date and irrelevant. This may result in the Council being unable to effectively discharge its functions which could have an adverse affect on public protection.	Licensing & Business Support Team Leader	12/11/13	3	3	9	Accept	Approve the review of the current taxi policy			
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											