

## **LICENSING AND SAFETY COMMITTEE**

**15 DECEMBER 2020**

### **HACKNEY CARRIAGE AND PRIVATE HIRE POLICY 2021-2026**

Report from: Perry Holmes, Chief Legal Officer

Author: Mandy Francis, Licensing Manager

#### **Summary**

To present Members with a draft of the revised revised Hackney Carriage and Private Hire Licensing Policy and the proposed consultation methodology.

#### **1. Budget and policy framework**

1.1 The Committee's terms of reference state that the Licensing and Safety Committee will make recommendations to Council for approval of a number of licensing policies.

#### **2. Background**

2.1. The overarching aim of the taxi and private hire licensing regime is to protect the public by ensuring that all drivers, vehicles and operators are licensed and regulated by local authorities in accordance with statutory provisions, primarily set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and, where they exist, local policy requirements.

2.2. Although it is not a statutory requirement, the Council first published a Hackney Carriage and Private Hire Licensing Policy in April 2016; taking into account the Best Practice Guidance issued by the Department for Transport, the Regulators' Code, the policies of other local authorities and any other relevant matters.

2.3. Hackney carriages (taxis) and private hire vehicles, their drivers and their operators have an important role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available, outside 'normal' hours such as in the evenings or at weekends, or for those with mobility difficulties.

- 2.4. Policy requirements that are unduly stringent could restrict the availability of taxi and private hire services, and consequently be detrimental to public safety. It is therefore important to try and ensure that policy requirements are justified by the risks they aim to address and balanced against potential negative outcomes.
- 2.5. A successful balance will help the taxi and private hire trade develop successfully whilst providing safety and assurance to the public.
- 2.6. The existence of a policy has proved to have been an effective tool for achieving this balance and for establishing and maintaining standards, protecting public safety, and ensuring consistency and transparency.

### 3. Proposed Revisions

- 3.1. In July 2020, the Government issued Statutory Taxi and Private Hire Vehicle Standards under the Policing and Crime Act 2017, to which all Licensing Authorities must have regard in carrying out their licensing function.
- 3.2. Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers; primarily through ensuring the fitness and propriety of applicants and licence holders.
- 3.3. This 2021 revision therefore seeks to incorporate all of the standards set out within the Statutory Taxi and Private Hire Vehicle Standards where they are not already in place.
- 3.4. This revised policy seeks to strengthen requirements placed on licence holders to meet provisions of the Equality Act 2010 and gradually improve the balanced nature of the licensed fleet, by requiring that all newly licenced hackney carriage drivers who wish to licence a hackney carriage vehicle ensure it is a purpose built or converted wheelchair accessible vehicle, capable of carrying the majority of passengers who travel in their wheelchair as well as people with other disabilities.
- 3.5. Whilst not a statutory requirement, it is also proposed that Disability Awareness training becomes a mandatory requirement for all new and existing licence holders.
- 3.6. An in-depth review of the existing policy has been carried out by the Licensing Manager to highlight areas of the policy that are considered to be in need of revision or removal, having particular regard to the matters outlined above.
- 3.7. All proposed changes have been incorporated into the newly structured draft policy attached at Appendix A.
- 3.8. Appendix B sets out the main changes to the policy for ease of reference.

## 4. Review of Policy

- 4.1 It is proposed that the revised policy, if approved by Full Council following consultation (as set out below), will come into effect on 1 May 2021 and remain valid for five years, as with the current policy and in accordance with the national standards, until 30 April 2026, unless it becomes necessary to make further revisions beforehand following changes to legislation or local circumstances, for example.

## 5. Risk management

- 5.1 Whilst each individual application will be judged on its own merits, a documented policy ensures a transparent and consistent approach to licensing that reduces the opportunity for challenge through the Courts. Challenges to a particular decision are more likely to fail if the Council can demonstrate that it has adhered to its published policy and there was no reason to depart from it. Any departure from the policy will be based on material evidence and will be documented giving clear and compelling reasons for such departure.

## 6. Consultation

- 6.1 It is proposed to consult with the following:

- Medway Licensed Taxi Drivers Association
- Taxi and private hire trade
- Kent Police
- Medway Council Highways department
- Medway Council (Schools contracts department)
- Medway Access Group
- Medway Town Centre Management
- Councillors
- Parish Councils
- Members of the Kent and Medway Regulatory Licensing Steering Group
- Members of the public through the Council's website

- 6.2 A consultation of at least four weeks is proposed. Methods of consultation will be via the Council's website and by direct email and mail shots.

- 6.3 All incoming responses will be collated and entered onto a grid for consideration.

- 6.4 The Licensing Manager will conduct an evaluation of each response and give a recommendation, in consultation with the Regulatory Services Manager, as to whether or not to amend the policy statement and, if so, to what extent.

## 7. Post-consultation

- 7.1 The grid and recommendations will be put before the Licensing and Safety Committee when it meets on 9 March 2021 for further, post-consultation, consideration.
- 7.2 Any proposed variations by Members of the Licensing and Safety Committee will then be incorporated into the revised Hackney Carriage and Private Hire Licensing Policy 2021-2026 to create a final draft for approval by Full Council on 22 April 2021.

## 8. Climate change implications

- 8.1 The Guidance suggests that licensing authorities may wish to consider how far their vehicle licensing policies can and should support any local environmental policies they have adopted, for example, by considering setting vehicle emissions standards, but bearing in mind the need to ensure that the benefits outweigh costs (in whatever form).
- 8.2 [The Council declared a climate change emergency in April 2019](#) - item 1038D refers, and has set a target for Medway to become carbon neutral by 2050. In working towards achieving this ambitious target, the council must consider the environmental impacts arising from its licensed taxis and PHVs, and seek to help reduce the resultant carbon footprints. With this in mind, the taxi policy has been amended to include a requirement that all vehicles, other than stretched limousines and Wheelchair Accessible Vehicles, must meet or exceed the Euro 6 emission standards. This section of the policy, and the associated vehicle criteria, will be kept under review.

## 9. Financial implications

- 9.1 The cost of consultation and publishing an updated policy will be met from within existing budgets.
- 9.2 The Hackney Carriage and Private Hire Licensing Policy is not envisaged to place any new financial pressures on the Council.

## 10. Legal implications

- 10.1 There is no legal requirement for a policy, however it is best practice. This is different from the Licensing Act 2003 and the Gambling Act 2005 where a written policy is a legal requirement.
- 10.2 Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions.
- 10.3 Under the Human Rights Act 1998 Members must consider the hackney carriage and private hire drivers' right to "enjoyment of possession" under Article 1 of the First Protocol – Protection of Property and in determining a

policy regarding the licensing of these individuals must balance this right with need to protect the public.

## 11. Recommendations

- 11.1 That the Committee agree the draft Hackney Carriage and Private Hire Policy 2021-2026 for consultation and the proposed method of consultation.

### Lead officer contact

Mandy Francis, Licensing Manager, Gravesham and Medway Shared Licensing Service, [mandy.francis@gravesham.gov.uk](mailto:mandy.francis@gravesham.gov.uk)

### Appendices

Appendix A – Draft Medway Hackney Carriage and Private Hire Policy 2021-2026.  
Appendix B – Table summarising significant amendments to the draft policy.

### Background papers

None