

LICENSING AND SAFETY COMMITTEE

8 APRIL 2021

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 the consultation responses received in respect of the draft revised Hackney Carriage and Private Hire Licensing Policy. The report includes an evaluation of each response and gives a recommendation as to whether or not to amend the draft revised policy statement and, if so, in what way and to what extent. Member input is sought in finalising the policy statement for publication and implementation.

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. An in-depth, critical review of the existing policy was carried out by the Licensing Manager and Regulatory Services Manager to highlight areas of policy in need of revision or removal, having regard, amongst other matters, to:
 - 3.1.1. Incorporation of the Statutory Taxi and Private Hire Vehicle Standards published in July 2020 to which all Licensing Authorities must have regard in carrying out their licensing function.
 - 3.1.2. The guidance from Information Commissioner's Office in relation to mandatory CCTV policies.
 - 3.1.3. Supporting the council's carbon neutral commitment.
 - 3.1.4. Improving equality and driver expertise by such means as the introduction of mandatory disability awareness training.
- 3.2. The entire draft policy, as consulted on, is attached at Appendix A.
- 3.3. Appendix B sets out the main changes to the policy for ease of reference.
- 3.4. Since the consultation, Government have announced plans to introduce mandatory HRMC checks as part of taxi and private hire licence applications from April 2022. Exact details are not yet known and will be set out in Regulations in due course, however this will necessitate slight changes being made to the application procedures. It is recommended therefore that Members agree for officers to make the necessary minor administrative amendments to the relevant sections of the Policy to reflect this proactively.

4. Consultation

4.1 A four-week consultation took place between 25 January 2021 and 5 February 2021 during which the following bodies were invited to comment on the draft policy:

- Medway Licensed Taxi Drivers Association
- All current hackney carriage vehicle and driver licence holders licensed by Medway Council
- All current private hire vehicle, driver and operator licence holders licensed by Medway Council
- Kent Police
- Medway Council Highways department
- Medway Council (Schools contracts department)
- Kent County Council (Schools contracts department)
- Disability Medway
- Medway Town Centre Management
- Borough Councillors
- Parish Councils
- Members of the Kent and Medway Regulatory Licensing Steering Group
- Members of the public through the Council's website and local press

4.2 Responses were received from the MLTDA, 52 drivers, and from stakeholders including council officers and KCC public transport department.

4.3 The Licensing Manager, in consultation with the Regulatory Services Manager, has conducted an evaluation of each response and given a recommendation as to whether or not to amend the policy statement and, if so, in what way and to what extent.

4.4 The grid and recommendations are attached as Appendix C.

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. Climate change implications

- 6.1 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).
- 6.2 [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.

7. Financial implications

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

8. Legal implications

- 8.1 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.
- 8.2 Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions.
- 8.3 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.

9. Recommendations

- 9.1 Members to consider each of the recommendations made in the evaluation grid attached as Appendix C to this report, and those referred to in section 3.4 of this report, advise on relevant amendments and instruct officers to update the draft policy document accordingly for recommendation to Full Council for approval.

Lead officer contact

Mandy Francis, Licensing Manager (Gravesham and Medway Shared Licensing Service)
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

Appendix C – Consultation responses grid and officer recommendations.

Background papers

None