

COUNCIL

22 APRIL 2021

HACKNEY CARRIAGE AND PRIVATE HIRE POLICY 2021-2026

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Summary

This report requests that full Council approves the Hackney Carriage and Private Hire Policy 2021-2026.

The report includes the consultation responses received in respect of the draft revised Policy. It includes an evaluation of each response.

1. Budget and policy framework

1.1. The terms of reference of the Licensing and Safety Committee state that this 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 is attached at Appendix A. This has been amended from the draft policy previously consulted on in order to incorporate recommendations made by the Licensing and Safety Committee. These changes are set out in section 6 of this report.
- 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 7 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. Licensing and Safety Committee – 8 April 2021

5.1. The Committee considered the report as follows:

5.2. **Discussion:**

The Committee considered a report on the consultation responses that had been received in respect of the draft revised Hackney Carriage and Private Hire Licensing Policy. The Licensing Manager outlined the proposed revisions to the policy and members of the Committee raised a number of comments and questions as follows:

- 5.3. **Consultation period** – Concern was expressed that the four-week consultation had been too short to ensure that the views of all interested parties had been captured. The Licensing Manager advised that the policy needed to be renewed by 30 April 2021 when the existing policy ended, that all drivers were individually consulted as well as other stakeholders, and the response rate to the consultation was significant; indicating that the consultation was sufficient. In addition, the Chairman reminded Members that they had been consulted on and approved the proposed consultation period and methodology prior to commencement.
- 5.4. **First aid kit and fire extinguisher** – Clarification was sought on whether there was a legal requirement for vehicles to carry these items or whether the recommendation to require them was a policy issue. The Regulatory Services Manager suggested that Members may wish to consider recommending that this proposed revision be excluded from the draft policy as this would not prevent any requirement being imposed by law.
- 5.5. **Revised vehicle age criteria** – It was questioned whether an upper age limit for vehicles was necessary as some vehicles could remain in good condition beyond the age limit. It was suggested that a vehicle's emissions would be a more appropriate guide to their suitability for licensing. The Regulatory Services Manager responded that the proposed age requirement was designed to maintain standards including safety standards.
- 5.6. **Wheelchair accessible vehicles** – A number of Members questioned the proposed requirement for all new hackney carriage drivers to have a purpose built or converted wheelchair accessible vehicle. It was considered that more research and consultation with disability groups was required to establish demand for this type of vehicle. Concern was also expressed that the cost might deter people from applying to become a hackney carriage driver. It was recognised that currently, passengers who required a wheelchair accessible taxi might have difficulty in finding one for hire. The view was also expressed that the new requirement might lead to too many wheelchair accessible vehicles which might not always be the preferred choice of passengers. There was a suggestion that a maximum overall number might be appropriate. Alternatively, operators with a specific number of vehicles might be required to ensure that a percentage of them were wheelchair accessible. The Licensing Manager responded that this had been considered but had been discounted

as operators did not employ drivers, who could move between different circuits to work.

- 5.7. Officers highlighted the small number of wheelchair accessible vehicles currently in operation within Medway, this being around six out of around 600 vehicles. Members were advised that approximately 10 new hackney carriage drivers were licensed each year which meant that around 50 new vehicles of this type might be in operation by the time the policy was next reviewed, should the requirement be adopted. The requirement could be amended at that time if it was considered necessary to do so.
- 5.8. **DBS update service** – Officers clarified that an enhanced disclosure check every six months was now a statutory requirement. When signing up to the update service, drivers would pay £13 a year as opposed to £60 for each check. In addition to reducing the financial burden on drivers, use of the service would help ensure compliance and the results would be immediately available to Licensing Officers.
- 5.9. **Disability Awareness Training** – In response to a suggestion that existing drivers be given 12 months to complete this requirement rather than 6 months, the Licensing Manager advised that 6 months was in accordance with national standards. The training would consist of a virtual session which drivers would be able to undertake at their convenience.
- 5.10. **Colour of vehicles** – Whilst recognising that the current standard colours for hackney carriage and private hire vehicles, white and red respectively, were not always available from manufacturers without incurring an additional cost, Members were concerned that officers' recommendation for this requirement to be removed from the policy would lead to a loss of identity for Medway's taxi fleet. Its retention was also considered to be important for safety reasons as customers were able to easily recognise vehicles licensed by Medway.
- 5.11. In drawing the discussion to a conclusion, the Chairman sought clarification on whether Members would support the proposed requirement for all new hackney carriage drivers to have a purpose built or converted wheelchair accessible vehicle. Members individually confirmed that they would support this.
- 5.12. **Decision:**

The Committee recommended the draft Hackney Carriage and Private Hire Policy 2021-2026 to Full Council for approval, with the exception of the proposal to require vehicles to carry a first aid kit and fire extinguisher and the proposal to remove the current standard colour requirement for vehicles which it considered should remain as white for hackney carriages and red for private hire vehicles.

In accordance with Council rule 12.6, Councillors Browne, McDonald and Prenter requested that their votes in favour be recorded.

6. Changes to Draft Policy

6.1. In consideration of the recommendations made by the Licensing and Safety Committee, the following changes have been made to the draft Policy:

- i) Removal of a proposal to require vehicles to carry a first aid kit and fire extinguisher.
- ii) The proposal to remove the current standard colour requirement for vehicles has been withdrawn.
- iii) The requirement for vehicles to be Euro 6 compliant and the age criteria for vehicles should apply to all vehicles being licensed with the council for the first time. This would apply to all people coming into the trade for the first time and all current drivers when they next change their vehicle.

7. Risk management

7.1. 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.

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. Council is asked to:

a) Note the comments of the Licensing and Safety Committee set out in section 5 of the report.

b) Approve the Hackney Carriage and Private Hire Policy 2021-2026, as set out at Appendix A to the report.

c) Delegate authority to the Chief Legal Officer to in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation, make further necessary minor administrative amendments to the relevant sections of the Policy, as set out in paragraph 3.4 of the report.

Lead officer contact

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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.