

## **Licensing and Safety Committee**

**16 June 2025**

### **Review of Hackney Carriages and Private Hire Vehicles Licensing Legislation and Regulations**

Report from: Bhupinder Gill, Assistant Director Legal and Governance

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#### **Summary**

Following a review of Hackney Carriages and Private Hire Vehicles licensing this report sets out the division of Licensing functions between the Committee and the Cabinet as provided for within the Functions Regulations.

#### **1. Recommendations**

- 1.1. That the Committee notes the outcome of the review and notes that a report will be submitted to Cabinet on 8 July setting out those Hackney Carriages and Private Hire Vehicles licensing functions which are the responsibility of the Executive (Cabinet).

#### **2. Budget and policy framework**

- 2.1. The functions regulations divide responsibility for Licensing Functions particularly (although not exclusively) those in relation to Taxi Licensing between Full Council and Cabinet. Therefore, reports are being presented to both this Committee and the Cabinet to clarify and confirm matters going forward.

#### **3. Background**

- 3.1. The majority of Functions in relation to Taxi Licensing (Hackney Carriages and Private Hire Vehicles) sit with Full Council by virtue of provisions in the statutory framework, however, there are some aspects of the service that are executive functions. As the Licensing and Safety Committee is a committee of Full Council it has responsibility for those Council side functions but it cannot exercise those functions that are the responsibility of the Executive.
- 3.2. The Committee (through the Licensing Sub-Committee) will retain responsibility for all decisions to grant or take enforcement action against any individual licence, including vehicle licences, driver licenses and operator licences. This will include appeals against decisions taken by officers using their delegated powers. The Sub-Committee's terms of references already

cover these responsibilities, therefore, it is not necessary to seek to amend either the Licensing and Safety Committee's terms of reference or the Licensing Sub-Committee's terms of reference.

- 3.3. The setting of policy, fees and fares, however, is an executive function and, therefore, lies with Cabinet. This ambiguity has arisen mainly because it is unusual for a function to be divided in this way. Generally when the statutory framework indicates that a function should sit with Full Council it encompasses the full range of activities. This is not the case with Taxi licensing, in part because of the age of the underlying legislation which significantly pre-dates the Local Government Act 2000 which established the Cabinet and Leader model of Local Authorities.
- 3.4. This split of responsibilities will be reported to Cabinet on 8 July 2025, as part of the Taxi Tarriff Review Policy and will state that Cabinet Member responsibility will fall under the remit of the Portfolio Holder for Community Safety, Highways and Enforcement (Councillor Paterson), under the "Licensing (executive functions only)" heading.

#### 4. Advice and analysis

- 4.1. All Local Authority functions are by default Cabinet functions unless statutory provisions require it to be Full Council. In the vast majority of cases the entirety of a function will sit either with Full Council or with Cabinet. Taxi licensing is an exception to this.
- 4.2. The Local Government (Functions and responsibilities) (England) Regulations 2000 set out which governance route functions should follow. In the case of Taxi Licensing, the elements which deal with the actual licence that is issued to an individual or business are Full Council side functions, this is in line with other provisions which deal with the personal possessions or rights of individual residents within Medway. The policy considerations including fee and fare setting are however executive functions and therefore the decision making is within the remit of the Cabinet.
- 4.3. This report makes this division of functions clearer both for officers who are delivering the service, those working within the licenced sector and for members of the public.
- 4.4. This Committee is also reminded that it considered the Taxi Tarriff Review Policy on 10 April 2025. Given that report had been finalised and published prior to the review of taxi licensing, the report stated that approval of the Policy would be a matter for full Council. In light of the outcome of this review, the Policy is now an executive function, therefore, the Cabinet will be recommended to approve the Policy on 8 July 2025.

#### 5. Risk management

- 5.1. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

| Risk                      | Description  | Action to avoid or mitigate risk                              | Risk rating |
|---------------------------|--|---|-------------|
| Governance irregularities | Continued confusion around governance routes leads to decisions being taken in the wrong forum | Advise the Committee and Cabinet to introduce greater clarity | CIII        |

For risk rating, please refer to the following table (please **retain** table in final report):

| Likelihood    | Impact:        |
|---------------|----------------|
| A Very likely | I Catastrophic |
| B Likely      | II Major       |
| C Unlikely    | III Moderate   |
| D Rare        | IV Minor       |

## 6. Consultation

6.1. None required.

## 7. Financial implications

7.1. There are no financial implications arising directly from this report.

## 8. Legal implications

8.1. The legislative framework for Taxi Licensing has been requiring reform for a significant period of time. Case law from the 1970s include comment that the system required review to keep pace with the modern world. Despite that the regime remains unchanged with Hackney Carriage provisions dating back to 1847.

8.2. This often involves a measure of interpretation being applied to adapt the rules for the social and technological advances that have happened and will continue to happen.

8.3. Given these factors it is essential that we have a clear understanding of the appropriate governance routes which apply to this area.

8.4. Whilst Full Council remains responsible for the licences issued to individuals as set out above the setting of policies, including fee and fare setting, is a matter for Cabinet.

## Lead officer contact

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Appendices

None

Background papers

None