

REGULATORY SERVICES COMMITTEE - WEDNESDAY 20 MARCH 2019

PART I - DELEGATED

4. REVIEW OF TRDC'S EXISTING HACKNEY CARRIAGE, PRIVATE HIRE AND OPERATOR POLICIES

1 Summary

- 1.1 To advise the Members of the Regulatory Services Committee on recommended changes to the Council's Hackney Carriage Driver, Vehicle and Private Hire Driver, Vehicle and Operator policies. As a result of changes to Department for Transport (Dft) guidance and the Institute of Licensing training (IOL), it is necessary to continually review and update the taxi policies being used by the Licensing Authority. The TRDC Hackney Carriage and Private Hire Suitability Policy was reviewed and adopted in January 2018. The other existing policies have not been reviewed within the last 3 years. This is to ensure that we are clear on how we make decisions on determining a licence application and how the Council would take action if required on an issued licence.
- 1.2 Over the last 6 months the Lead Licensing Officer has undertaken a review of the existing taxi policies. The review has had regard to other local authorities' policies, legislation changes and issues the department has faced first hand in respect of proactive and proportionate enforcement. The review will also ensure the department can improve and uphold high standards of customer service to its residents to the benefit of the professional and respected Hackney Carriage and Private Hire trades which operate within Three Rivers District Council (TRDC).
- 1.3 The review seeks to implement a single all-encompassing taxi policy, to be known as the Hackney Carriage and Private Hire Policy, hereafter referred to within this report as "the Policy". The Policy is intended to cover all aspects of taxi licensing, from the general application process to matters concerning enforcement via a points system. The Policy also includes the necessary licence requirements, Byelaws and Conditions relating to Hackney Carriage and Private Hire vehicles and drivers and Operators. Additionally, and most importantly, it seeks to protect the public and support small businesses by ensuring a consistent and fair approach.
- 1.4 This report therefore seeks Member support for progressing with a 28-day consultation exercise on the Policy so it can be reviewed by those within the taxi trade and relevant consultees.

2 Details

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 places a duty on Councils to carry out licensing functions in respect of Hackney Carriage and Private Hire vehicle, drivers and operators.
- 2.2 It is good practice for Local Authorities to review their policies and standards for Hackney Carriage and Private Hire licencing on a regular basis. The TRDC Hackney Carriage and Private Hire Suitability Policy was reviewed and adopted in January 2018; however due to staff shortages and a turnover of staff all other policies were not reviewed (excluding Private Hire driver, vehicle and operator conditions).
- 2.3 Legislation has changed rapidly and the current policies in place do not reflect the importance of checking the drivers' suitability as to whether they can be trusted with vulnerable passengers and the general public.

- 2.4 It is considered that in order to achieve a high standard of good practice more checks must be put in place to ensure the Licensing Authority are licensing only the most appropriate drivers given that they will be in a position of trust. It is therefore important to ensure that all drivers are 'fit and proper or 'safe and suitable'.
- 2.5 It is vital that Members of the Committee recognise that the Policy, whilst remaining a Policy and therefore the Council's own guidelines on the matter, is the baseline for acceptability.
- 2.6 Currently the Licensing Authority has eight separate policies for the Hackney Carriage and Private hire driver's vehicles and Operators.
- TRDC Hackney Carriage & Private Hire driver and Private Hire Operator Suitability Policy
 - TRDC Private Hire Driver Standard Conditions
 - Hackney Carriage Byelaws
 - TRDC Hackney Carriage Vehicle Standard Conditions
 - TRDC Private Hire Vehicle Standard Conditions
 - TRDC Private Hire Operator Standard Conditions
 - Statement of Policy about relevant convictions or other information in determining refusals for Hackney Carriage or Private Hire drivers licences.
 - TRDC Enforcement Policy.
- 2.7 Having reviewed the current policies from a working practice perspective, the Licensing Authority has found the policies problematic as a team and for the licensees. One of the key issues has been the struggle to find important information quickly which has affected our ability to provide a high standard of customer service and to avoid unnecessary confusion between staff and applicants.
- 2.8 Following discussions in-house, it was identified that the Licensing Authority would be far more effective if the existing policies were strengthened and more robust. The following paragraphs set out the main changes between the existing policies and the Policy.
- 2.9 Right to Work:**
- 2.9.1 The Immigration Act 2016 (Section 3.6, page 6) requires us to ensure the licence-holders have the correct permissions to work in the UK. There is no reference to immigration checks or right to work in current policies. The Policy will ensure that we have processes in place to obtain the correct documentation.
- 2.10 Method and Uniformity:**
- 2.10.1 The methods and uniformity employed by TRDC were not defined in the previous policies which have now been clearly set out in the new policy (Section 4.3, page 6).
- 2.11 Administration of Licences:**
- 2.11.1 Administration of the licences has also now been clearly outlined with an increase of 5 to 28 days (Section 6, page 7) to process a licence application. Drivers currently submit an application and expect the licence to be issued within the 5-day time period which does not allow for application timescales for DBS applications and booking GP appointments for medicals.
- 2.11.2 The increase to 28 days is to allow for applications and supporting documentation to be thoroughly checked by the licensing authority and to avoid drivers submitting their

applications so close to the expiry date of their licence. This extended process will therefore encourage renewing applicants (for drivers, vehicles and operators) to submit the required application and supporting documents well before their existing licence expires.

2.12 General Fee Guidance:

2.12.1 Currently no general fee guidance exists and thus the Policy seeks to address this (Section 7, page 7). Guidance will enable drivers to be awarded a partial refund dependent on circumstances and provides more clarity over other circumstances whereby a licence is surrendered before the expiry date.

2.13 Service Standards:

2.13.1 Service standards are now detailed whereas previously this was not clear on the standards applicants should expect from the Licensing Authority (Section 8, page 7). This identifies how, when and by what means an applicant can contact the Council.

2.14 CCTV

2.14.1 The Licensing Authority is receiving more requests for drivers to have CCTV in their vehicles, with the use of dash cams becoming popular. Dash cams are not compliant with regulations in relation to CCTV in public vehicles and are not covered by data protection or GDPR due to the format in which they record (Section 9 page 17). Information can only be kept for up to 48 hours and is recorded on a rolling loop to a memory card or similar and therefore would not provide information to an officer if required within the specified time, as it is likely the information would have been recorded over.

2.15 Safeguarding:

2.15.1 Safeguarding (Section 13, page 8) is high on the agenda for taxi licensing. Training has been provided to all local authorities and agencies highlighting how important it is that our drivers are made aware of and attend the relevant training so they can assist with safeguarding issues and report to the relevant authorities. With that in mind the Policy is recommending that mandatory training (Section 17.5, page 14) will be required for all drivers and operators and that, if a licence-holder does not attend mandatory training, the appropriate action can be taken against their licence. There is currently nothing in the TRDC policy to enforce this.

2.16 Driving Standard and Knowledge:

2.16.1 Drivers will be required to have had 3 years' driving experience (Section 16.2, page 10) as opposed to 2 years' experience which is currently stated in TRDC policy. All new drivers will also be required to undertake a driver standards test to ensure they are fully conversant with the enhanced driving standards required by the licensing trade.

2.16.2 Drivers' personal hygiene and appearance standards are to be strengthened with the suggestion of a dress code for all drivers (Section 16.2, page 10). This follows several enforcement checks where drivers and vehicles fell well below the minimum standard that the Licensing Authority would expect. Poor standards of hygiene and appearance could therefore potentially damage the reputation of the local authority and the trade as a whole.

2.16.3 It should be noted that there are many other authorities that insist on a dress code and livery for their vehicles. At the current time the Policy is only suggesting a required standard of dress code for the drivers and operators.

2.17 Medical Fitness:

2.17.1 The Policy is recommending that medical certificates are provided every three years up to 60 years old (Section 16.3, page 11) in line with the Government minimum standard of three-year licences. Currently drivers are required to provide a medical when they are first licensed, then they do not have to provide another medical certificate until they are 45 years old (meaning that a driver may not need to provide a medical certificate for over 20 years which is concerning), then 5 yearly until they are 65 years old. Unless the driver has type 1 diabetes then he/she is required to provide annual medicals. Drivers are currently required to advise us if their medical condition changes but this is not currently happening. The Policy therefore seeks to strengthen existing procedures and to ensure all those licensed are suitable.

2.18 Suspension, Refusal, Revocation by another Council:

2.18.1 The Policy includes a paragraph in relation to suspension, refusal or revocation by another Council. As it stands, there is nothing in the TRDC policy which allows for the Licensing Authority to take action if a new applicant has been the subject of action by another Council (Section 16.5, page 12).

2.19 Dual Driver's Licences:

2.19.1 For drivers that currently hold both a Hackney Carriage and Private Hire licence (approximately 5 in total), the Policy seeks to introduce the ability for the Licensing Authority to issue a dual licence (Section 16.6, page 12) which will allow the driver to wear only 1 badge. Applicants would still be required to sit both Hackney Carriage and Private Hire knowledge tests and would be under the same rules and regulations but the administrative tasks around issuing such a licence would halve.

2.20 National Register of Taxi Licence Refusals and Revocations:

2.20.1 There is now a national database (Section 16.8, page 12) for all refused and revoked drivers known as NAFN. The Licensing Authority has a legal requirement to advise drivers that their details will be uploaded to this database and their information will be shared with all other authorities should we receive a request for information around a refusal or revocation. This is to ensure that previously refused or revoked drivers are not licensed with any other authority.

2.21 Online DBS Checks:

2.21.1 In relation to the criminal record checks the Licensing Authority provides the ability for drivers to complete their application via online forms which enables us to check their DBS status quickly and makes the DBS process more streamlined. The Policy seeks to take this a step further as guidance from the Government suggests that local authorities should ensure that ALL licensed drivers are mandated to sign up for the update service (Section 17.1, page 13). This will allow authorised officers to check the status of the driver's criminal record instantly, therefore reducing the delays in processing applications and also reducing the requirement to suspend driver licences.

2.22 Planning Permission:

2.22.1 The Policy states that operators will be required to gain the required planning consent (Section 17.3, page 14) to use their premises as an operator base. Operators working from their home address will be required to gain specific permission from their landlord, Council or relevant housing association (where appropriate) to use either address for business purposes.

2.23 Use of Mobile Applications:

2.23.1 The use of mobile applications (apps) is not specified in current policy and therefore with the acknowledgement of rapid change in mobile technology, as a local authority, we must recognise this. As a result it is proposed that all apps used by licensees must be approved by the Licensing Authority (Section 17.4, page 14).

2.24 Age of Licenced Vehicle:

2.24.1 Following issues with some existing conditions relating to licensed vehicles, the Policy seeks to strengthen a number of conditions. It has been suggested by the compliance garages that the age of new vehicles coming on to the fleet should be no more than 7 years old. It is therefore proposed that all newly licensed vehicles must be no more than 7 years old (Section 18.3, page 15). Any vehicles already on the fleet between 7-10 years old must pass 6-monthly compliance tests and vehicles over 10 years must pass quarterly compliance tests as a minimum. Vehicles must also be in a suitable condition for a licensed vehicle as defined clearly in the Policy.

2.25 Tyre Age:

2.25.1 It is proposed to include a tyre age for all licensed vehicles (Section 18.3, page 15). There have been press releases where people have been killed by a public service vehicle (PSV) that had a tyre on the vehicle that was more than 20 years old. The Policy therefore requests that tyres are no more than 10 years old; this would be more focused on the minibus type vehicles. It is also proposed to recommend that part-worn tyres (second hand or used) are not used on any of our licensed vehicles. This has come as a recommendation from the compliance garages as nobody can be sure of the history of a part-worn tyre.

2.26 Wheelchair Accessibility:

2.26.1 Within current policy there is no promotion of accessibility for wheelchair users. It is therefore proposed that wheelchair-accessible vehicles (Section 18.5, page 15) are encouraged for applications for Private Hire Vehicles offering wheelchair accessibility. Currently there is no requirement for Private Hire vehicles to be wheelchair-accessible. All Hackney Carriage vehicles that are licensed with TRDC are wheelchair-accessible.

2.27 Reducing Air Pollution:

2.27.1 Taking the environment into consideration, Officers are requesting that licensed drivers do not to leave their vehicles idle for sustained periods of time (Section 18.6, page 15) which can cause unnecessary air pollution. The Licensing Authority has recently received draft legislation which has been suggested will be implemented by 1 May 2019; known as 'The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019'. All local authorities will be required to provide details of all licenced Private Hire and Hackney Carriage vehicles to the Secretary of State on a weekly basis and the SoS will monitor all licensed vehicles moving in and out of a charging 'Clean Air Zone'.

2.28 Roof Boxes:

- 2.28.1 The Policy proposes that no roof boxes or roof racks will be permitted unless the vehicle has this integrated as they can be dangerous if overloaded (Section 18.10, page 16).

2.29 CCTV:

- 2.29.1 The Government and the Department for Transport (DfT) encourage licensed vehicles to have CCTV installed and this is replicated within the Policy (Section 19, page 16). This would ensure protection for the driver and the passengers. There is currently no condition in relation to CCTV in existing policies and therefore the Policy seeks to add conditions as a minimum standard which could be made mandatory if the Licensing Authority is minded to do so.

2.30 Use of Licensing Sub-Committee:

- 2.30.1 Current TRDC policy does not specify that licencing applications can be determined by a licensing sub-committee if there are questions over the licence's criminality (Section 21.1, page 22). Although the Lead Licensing Officer has delegated authority to make decisions on licencing issues, there may be occasions where it is more appropriate to refer the matter to a licensing sub-committee.

2.31 Driving under the Influence of Alcohol/Drugs:

- 2.31.1 The Policy includes details (Section 21.7, page 24) about drivers under the influence of drugs. New evidence has proved that more drivers are being stopped and found to be driving under the influence of drugs, which carries a similar penalty to driving whilst under the influence of alcohol.

2.32 Licensing Offences:

- 2.32.1 Licensing offences (Section 21.14, page 26) have been given a separate heading within the Policy. This is to make it clear that an applicant must be at least 12 months free from conviction before applying for a licence at TRDC.

2.33 Expedition Policy for Revoked Licences:

- 2.33.1 The Policy proposes to include a paragraph to ensure there is clear guidance to licensees about expedited licences (Section 23, page 29) and the legality of either suspending or revoking a licence. This clearly states that the Licensing Authority can either suspend or revoke a licence but it is not lawful to suspend and then revoke.

2.34 Contravention Points System:

- 2.34.1 One of the current issues facing the Licensing Authority is the ability to action appropriate enforcement action quickly with a meaningful impact on those that have breached conditions etc. For example, when applying the current policy, staff can only send out warning letters to drivers which, it has been found, are toothless and are not taken seriously by those licensed by the Council. The Policy therefore suggests the introduction of a contravention points system (Section 25.6, page 34).
- 2.34.2 The points system is widely used by other licensing authorities and is successful in bringing up the standards of the drivers and vehicles. The points system is also a clear indication of what is required as a bare minimum standard. If a driver reaches

12 points within a 12-month period, the licensee will be referred to the Lead Licensing Officer or delegated to the licensing sub-committee for consideration.

- 2.34.3 The existing Lead Licensing Officer has first-hand experience of the drivers not wanting to be issued points against their taxi licence as they view this as a similar approach to having points added to their DVLA licence.

2.35 Appendices 1 - 11

- 2.35.1 The attached appendices are separate requirements and conditions for the various licences. Each requirement and or conditions will be provided to the licensee when their respective licence is issued.

2.36 Inappropriate Conversations:

- 2.36.1 The Policy seeks to include a licence requirement in relation to inappropriate conversations, whether verbal or electronic communication with passengers as there is nothing in current policy (Appendix 1). The Licensing Authority is aware that there have been several cases where drivers have requested contact numbers, and social media profiles/names from passengers. This behaviour is wholly inappropriate which will not be tolerated and thus is included as a licence requirement for Hackney Carriage and Private Hire drivers.

2.37 Tinted Windows:

- 2.37.1 It is proposed to include a requirement within the Policy for Hackney Carriage and Private Hire vehicles with tinted windows to be tested with a light meter and, should they fail, the tinted windows must be removed from the vehicles (Appendix 2 page 4). The safety of the general public is vital and there is no requirement for any licensed vehicle to have tinted windows except those that have exemption to carry out executive work such as stretched limousines and novelty vehicles. Regular Hackney Carriage and Private Hire vehicles do not require tinted windows.

2.38 Signage on Vehicles:

- 2.38.1 The Policy requests uniformity in relation to the signage on vehicles (Appendix 3, section 4). Signage that is required to be displayed by TRDC will be provided to the licensee but signage not required by TRDC will need to be authorised by licensing officers. Licensees will be charged an administration cost of £25.00 to check that all signage is compliant and written confirmation of this will be provided.

2.39 Policy for Stretched Limousine:

- 2.39.1 It is proposed to include a new Policy for stretched limousine and novelty vehicles as there is currently nothing in TRDC policies (Appendix 10).

2.40 Record Keeping:

- 2.40.1 As there is nothing included in current Policy with regards to record-keeping and how this is to be maintained, a new condition has been included within the Policy for Private Hire Operators (Appendix 11).

3 Options and Reasons for Recommendations

- 3.1 Following discussion at Committee, there are three options available for Members:

Option 1: Authorise Officers to consult on the Policy

Option 2: Authorise Officers to consult on the Policy with suggested amendments

Option 3: Determine that a further review is not required at this stage

4 Policy/Budget Reference and Implications

4.1 The recommendations in this report are within the Council's agreed budgets but require a modification to the taxi licensing policies.

4.2 The purpose of this proposed Policy is to strengthen the Hackney Carriage and Private Hire policy with immediate effect. At the end of one year, it is anticipated that the Policy will have raised the standards of the Hackney Carriage and Private Hire vehicles, drivers and operators.

4.3 Introducing the contraventions points system will have a positive impact on the standard of the drivers and vehicles.

5 Financial Implications

5.1 The proposal will be subject to stakeholder and public consultation which will incur a small cost. These costs will be subsumed within existing budgets.

5.2 As a result of the proposed strengthening of the Policy with more stringent pre requisites and requirements for operators, drivers and vehicles, this may deter applicants from making an application to TRDC. This would have a corresponding impact on income. Application volumes and income will be monitored and reported via budget monitor as appropriate. The Licensing Authority is run on a cost recovery basis and therefore any fee increase due to process or procedural changes will be reflected in the licensing fees which are currently undergoing a review.

6 Legal Implications

6.1 The proposed Policy sets out the principles of the Council and its expectations in respect of licensing applications. The Policy gives full and detailed information on how the licensing process will be carried out, is an integral part of the decision-making process, informing and guiding and providing a valuable aid to consistent decision making and indicates the expectations of the Council in assisting it to make its judgements on individual applications, and in carrying out its enforcement role. The Policy is vital to the Council's exercise of its powers under the Local Government (Miscellaneous Provisions) Act 1976 and related legislation & with regard to Government Guidance for Licensing Authorities.

7 Equal Opportunities Implications

7.1 Relevance Test

Has a relevance test been completed for Equality Impact? There will be no effect to equal opportunities with the proposed changes to the policy.	No
Did the relevance test conclude a full impact assessment was required?	No

The recommended changes may have an impact on the licence holders and new applicants but only if they breach the conditions that are set out in legislation and this policy.	
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8 Impact Assessment

- 8.1 There is no detrimental impact likely towards any protected group from introducing the Policy. Any consultation with the public will seek to collect relevant demographic data in order to assess the different views of relevant protected groups if any.

9 Staffing Implications

- 9.1 No immediate staffing implications are expected with the introduction of the proposed Policy. However, the further checks that are proposed due to more stringent requirements for the drivers and vehicles and the introduction of a points system may result in a need for increased Officer resources. This will be monitored and considered as part of the ongoing fee review based on cost recovery.
- 9.2 If the Policy is implemented it may also lead to additional references to Legal and an increase in demand to convene Licensing sub-committees due to the introduction of the points system. However as the Lead Licensing Officer has the delegated authority to make the final decision on applications and licences there may not need to be a significant increase to staff. This will be monitored accordingly.

10 Community Safety Implications

- 10.1 The Policy seeks to enhance the Licensing Authority's ability to protect the public and work with other agencies as specified at page 8.

11 Public Health implications

- 11.1 The Policy seeks to reduce vehicle emissions.

12 Customer Services Centre Implications

- 12.1 If approved for consultation, this policy may increase the number of calls from applicants and residents during the consultation process, though use of Firmstep will be considered to minimise this.

13 Communications and Website Implications

- 13.1 A copy of the Policy will be publicised on Three Rivers District Council website <http://www.threerivers.gov.uk/Default.aspx/Web/Licensing1>. It can also be published via TRDC social media platforms if required. There are no other communications and website implications.

14 Risk and Health & Safety Implications

- 14.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

14.2 The subject of this report is covered by the Regulatory Services Service Plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan.

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
<p>There is a risk to the Council if the Taxi Licensing Policy is not updated as TRDC would not be following Government guidelines.</p> <p>Current omissions and lack of clarity in certain areas of Policy would not be considered.</p>	<p>Potential challenge by Judicial Review</p> <p>Poor driver and vehicle standards affecting safety and reputation of the public but also of the Hackney Carriage and Private Hire workforce and TRDC.</p> <p>Drivers are not 'fit and proper' affecting public safety</p>	<p>Continued monitoring of applications, cross departmental working with Legal, Community Partnerships and the Police, appropriate Officer training, monitoring and compliance checks of existing operators, taxi drivers/vehicles</p>	Treat	<p>Currently 9 – High.</p> <p>The risk reduces if the recommendation is accepted</p> <p>2-4 Low</p>

14.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely --> Remote Likelihood	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8

2	Sufficient	
3	High	X

Background papers

Appendix 1 – Draft Policy for consultation (which has 11 Appendices which are listed below and are also provided as individual documents)

Appendices to the Policy:

Appendix 1 – Licence Requirements relating to Hackney Carriage and Private Hire Drivers

Appendix 2 – Requirements relating to Hackney Carriage and Private Hire Vehicles

Appendix 3 – Requirements relating only to Private Hire Vehicles

Appendix 4 – Requirements relating only to Hackney Carriage Vehicles Town

Appendix 5 – Licensing conditions relating to Private Hire Drivers

Appendix 6 – Hackney Carriage Byelaws

Appendix 7 – Conditions relating to Hackney Carriage Vehicles

Appendix 8 – Conditions relating to Private Hire Vehicles

Appendix 9 – Standards for Conditions of Appearance of a Hackney Carriage or Private Hire Vehicle

Appendix 10 – Non-standard Private Hire Vehicle conditions for stretched limousine, and novelty vehicles

Appendix 11 – Conditions relating to Private Hire Operators