

REGULATORY SERVICES COMMITTEE - 8 MARCH 2022

POLICY AND RESOURCES COMMITTEE – 14 MARCH 2022

PART I

5. AMENDMENTS TO TRDC'S EXISTING HACKNEY CARRIAGE, PRIVATE HIRE AND OPERATOR POLICY (DCES)

1 Summary

- 1.1 The existing Hackney Carriage and Private Hire Policy 2019 ("the Policy") (see **Appendix 1**) was effective from 1 October 2019 following a review earlier that year. The Policy is required to be reviewed every three years with the next review scheduled for 2022, if required.
- 1.2 Notwithstanding the above and prior to the forthcoming review, if necessary, a number of immediate changes to the Policy are required which require Committee approval. The changes have come to light over the past year when using the policy, ensuring that certain areas of the Policy are tightened with greater clarification provided for those that use and read the Policy. In addition, the Government will be introducing a new tax check (new legislation in the form of the Finance Bill 2020-21) which will be come into effect from 4 April 2022. This will affect those that drive taxi's and operate a private hire vehicle business within the District.
- 1.3 The changes to the Policy are set out in more detail within Section 2 of this report.
- 1.4 Following the Regulatory Services Committee in December, a 12 week public consultation commenced and expires on 11 March 2022.

2 Details

- 2.1 The proposed changes are broken down to the relevant parts below and are considered necessary in order to tighten the existing Policy to ensure the Council licences those that are fit and proper and ensure we can do all we can in protecting the public.
- 2.2 One of the changes requires private hire operators to submit an annual basic disclosure certificate which coincides with the policy aims such as protecting the public and by ensuring that those licensed and in charge of booking do not harm passenger safety.
- 2.3 Other changes such as not accepting insurance write offs aim to maintain the high standard of the trade operating within the District and greater clarification is provided to ensure that the requirements for all are clear.
 - 2.3.1 Hackney Carriage and Private Hire Driver Licence Requirements: (Appendix 1 of the Policy)
 - Requirement to return the driver's identity badge within 7 days of expiry (5 working days), revocation or suspension of licence
 - Requirement to sign up to the DBS update service
 - That the Council will not accept insurance write offs
 - 2.3.2 Hackney Carriage and Private Hire Vehicles Requirements: (Appendix 2 of the Policy)

- Clarification that any other vehicle licenced with another authority cannot be licenced by TRDC
- Clarification over exemptions for factory fitted tinted windows

2.3.3 Conditions relating to Private Hire Operators: (Appendix 11 of the Policy)

- Not to invite or accept bookings for private hire work for any vehicle which is not currently licensed by the Council
- Not to employ or engage any driver who does not hold a valid private hire or Hackney Carriage driver licence issued by the Council
- Details on subcontracting bookings onto another sub-contractor
- Requirement for Private Hire Operators to submit an annual 'basic disclosure certificate'.
- Requiring that the number of vehicles used by the licence holder does not exceed the number of vehicles in the licence
- Notification of change of details and how to submit such changes formally via the Council's online forms
- Clarification over trading names
- Requiring Operator to view a basic DBS certificate for any staff that have access to booking records or dispatch vehicles

2.3.4 Tax Check: (paragraph 17 of the amended Policy)

2.3.4.1 The introduction of a paragraph setting out that from 4 April 2022 licensing authorities must carry out checks on applications from individuals, companies and any type of partnership to make sure they are aware of their tax responsibilities or have completed a tax check. The objective behind the check is to make ensure individuals and businesses are aware of their tax obligations. The tax check is considered to be an innovative, cost effective and simple way to tackle this part of the tax gap and make it more difficult for people to hide from their tax obligations.

2.3.5 The checks must be done prior to granting or refusing a licence when renewing, applying for the same type of licence they previously held that ceased to be valid less than a year ago and applying for the same type of licence they already hold with another licensing authority. Gov.uk sets out the following guidance:

"Make sure your organisation has systems and processes in place ready for the changes on 4 April 2022, as you will need to:

- *ask applicants if they currently hold, or have held in the last 12 months before this application, the same type of licence with one or more licensing authority (including the licensing body that the applicant is applying to now)*
- *ask the applicant for their 9-character tax check code if they have to complete a tax check, so you can confirm that it has been done*
- *record their Company Number, if the applicant is a company*
- *make the applicant aware that HMRC has powers to obtain information from licensing authorities, we suggest using the following wording: 'Schedule 23 to Finance Act 2011 (Data Gathering Powers) and Schedule 36 to Finance Act 2008 (Information and Inspection Powers), grant HMRC powers to obtain relevant information from third parties. This includes licensing bodies being required to provide information about licence applicants.'*

You must also give applicants who do not need to complete a tax check the following GOV.UK website addresses for HMRC guidance about tax registration obligations:

- PAYE information: www.gov.uk/income-tax/how-you-pay-income-tax
- registering for Self Assessment: www.gov.uk/register-for-self-assessment
- Corporation Tax information: www.gov.uk/corporation-tax

You'll also need to record that the applicant has confirmed they are aware of the guidance, you can do this by adding a declaration onto the application form. We suggest using the following wording:

'I confirm that I am aware of the content of HMRC guidance relating to my/our (delete as applicable) tax registration obligations.'

2.3.6 As such, changes to the application process will be required and licences cannot be issued until the tax check has been completed.

2.3.7 Further guidance was provided via Gov.uk in January 2022¹.

3 Consultation

3.1 A public consultation regarding the changes to the Policy took place for 6 weeks and initially expired on 28 January 2022. However, the consultation was extended by a further 6 weeks as the Parish Councils were omitted from the original consultation exercise. The consultation now expires on 11 March 2022.

3.2 As a result of the consultation exercise, all existing taxi licence holders, all members, Parish Councils, relevant consultees on licence applications were notified and public notices were also displayed in the Watford Observer throughout the consultation period. The consultation was also displayed on the Council's website.

3.3 One response was received at the time of writing the report and is attached at **Appendix 3**. A response to the comments received is set out below:

3.4 Dual plating

3.4.1 Vehicles are not permitted to be dual licensed with many, if not all, licensing authorities. This is due to the requirement to display a licence plate throughout the duration of the licence. Should the licence plate be removed, the proprietor would be committing an offence by removing and not displaying the plate (Local Government (Miscellaneous Provisions) Act 1976).

3.5 Glazing

3.5.1 The legal requirement² is as stated in our Policy: Front Windscreen 75%, Front Side Windows 70%, All other Windows 30%.

3.5.2 Further to the Independent Inquiry into Child Sexual Exploitation in Rotherham³ this measure has been put in place for the utmost safety of the young and vulnerable as public safety is our utmost consideration.

3.6 Sub-contracting

¹ [Confirm a tax check for taxi, private hire or scrap metal licence applications - GOV.UK \(www.gov.uk\)](http://www.gov.uk/income-tax/how-you-pay-income-tax)

² <https://www.gov.uk/tinted-vehicle-window-rules>

³ [Independent Inquiry into Child Sexual Exploitation in Rotherham \(1997 - 2013\) – Rotherham Metropolitan Borough Council](#)

3.6.1 In response to the representation received, the amended Policy simply states that bookings must not be sub-contracted to another licensed driver. Section 55A of the 1976 Act permits operators licensed by the Council to sub-contract a private hire booking to another operator.

3.6.2 TRDC does not have any control over which operators/drivers are awarded schools contracts as this is a function of Herts County Council.

3.7 Alternative options to prevent incidents like installing cameras

3.7.1 Vehicle proprietors are permitted to install CCTV at their own expense, however, if the Licensing Authority was to make this a mandatory condition there may be many drivers that could not afford to install CCTV. Officers are not aware of any available funding for drivers to install CCTV at the current time.

3.7.2 Conditions set by the Policy must be practicable, financially viable for both the proprietor and the Licensing Authority, and must be proportionate.

4 **Options and Reasons for Recommendations**

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

Option 1: That Members agree the amended Policy subject to any new response(s) received within the consultation period.

Any response(s) to be circulated to all members of the committee with an officer response.

Following receipt of any further responses the Head of Regulatory Services will determine whether the amended Policy (attached to this report) can be presented to the Policy and Resources Committee for determination on formal adoption or returned to a future Regulatory Services Committee.

Option 2: Authorise Officers to make further changes on the Policy and return to a future Regulatory Services Committee.

Option 3: Decide not to adopt the amended Policy.

4.2 Officers recommend that Members adopt Option 1 so the changes to the Policy can be implemented without delay, subject to any other responses received, whilst improving the effectiveness of the department and to ensure greater safety checks for operators.

5 **Policy/Budget Reference and Implications**

5.1 The recommendations in this report are within the Council's agreed policy and budgets. Costs associated with a press notice are to be subsumed within existing licensing budgets.

6 **Financial Implications**

6.1 By implementing stricter controls this could result in reduced numbers of applicants which could affect income. However, the impact of this will be hard to quantify.

7 Legal Implications

7.1 No legal implications.

8 Equal Opportunities Implications

8.1 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? 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.	N/A

9 Impact Assessment

9.1 There is no detrimental impact likely towards any protected group from the proposed changes to the Policy.

10 Customer Services Centre Implications

10.1 The CSC will be made aware of the adoption of the Policy if agreed.

11 Communications and Website Implications

11.1 If agreed, an update will be added to the licensing pages of the Three Rivers website. Officers will also ensure that all operators and drivers are aware of the new changes if agreed.

12 Risk and Health & Safety Implications

12.1 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.

12.2 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>
Option 1: No risk.	n/a	n/a	Tolerate	1 - low

Option 2: Delays to requiring tighter controls	Officers will not be able to request certain information on applications which seeks to strength processes which may have an impact on public safety	Any amendments to be brought back to a future Committee as soon as possible	Tolerate	3 - Low
Option 3: Officers unable to request tighter controls.	Officers will not be able to request certain information on applications which may have an impact on public safety	Members advised against this option	Tolerate	3 -low

12.3 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	Low	High	Very High	Very High
	4	8	12	16
	Low	Medium	High	Very High
	3	6	9	12
	Low	Low	Medium	High
2	4	6	8	
Low	Low	Low	Low	
1	2	3	4	
Impact Low -----▶ Unacceptable				

Impact Score

4 (Catastrophic)

3 (Critical)

2 (Significant)

Likelihood Score

4 (Very Likely (≥80%))

3 (Likely (21-79%))

2 (Unlikely (6-20%))

1 (Marginal)

1 (Remote (≤5%))

12.4 In the officer's opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

13 Recommendation

13.1 That the Members of the Committee:

- (1) Recommend to agree the amended Policy subject to any new response(s) received. Any response(s) received within the consultation period are to be circulated to all Members of the Committee with an officer response.

Following receipt of any further responses the Head of Regulatory Services will determine whether the amended Policy (attached to this report) can be presented to the Policy and Resources Committee for determination on formal adoption or returned to a future Regulatory Services Committee.

Report prepared by: Lorna Fryer, Lead Licensing Officer

Data Quality

Data sources:

Local Government (Miscellaneous Provisions) Act 1976.

Data checked by: Matthew Roberts, Team Leader, Development Management.

Data rating:

1	Poor	
2	Sufficient	
3	High	X

Background Papers: None.

APPENDICES / ATTACHMENTS

Appendix 1: Existing Hackney Carriage and Private Hire Policy 2019

Appendix 2: Amended Hackney Carriage and Private Hire Policy 2019 (changes highlighted)

Appendix 3: Consultation response(s)