
**DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY
CONSIDERATION OF CONSULTATION RESPONSES**

Relevant Portfolio Holder	Councillor N Nazir
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

A review of all of the Council's hackney carriage and private hire licensing policies was undertaken in response to the publication by the Department for Transport of guidance under section 177 of the Policing and Crime Act 2017 entitled "Statutory Taxi & Private Hire Standards." This work has culminated in the production of a new draft hackney carriage and private hire licensing policy, which has been subject to consultation with relevant stakeholders. The responses received during this consultation now need to be considered.

2. RECOMMENDATIONS

That the Committee have regard to the responses received during the consultation and RESOLVE to approve the draft Hackney Carriage and Private Hire Licensing Policy at Appendix 1 to take effect on 1st September 2022.

3. KEY ISSUES

Financial Implications

- 3.1 The costs associated with carrying out the consultation were met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Statutory Taxi and Private Hire Standards have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017.

- 3.3 Section 177(4) of the Policing and Crime Act 2017 states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.
- 3.4 Proper consultation on any proposals to amend the Council's policies minimises the risk of legal challenge if the proposals are subsequently implemented.

Service / Operational Implications

- 3.5 Section 177 of the Policing and Crime Act 2017 enabled the Secretary of State to issue statutory guidance to taxi and private hire licensing authorities as to how their licensing functions may be exercised so as to protect children and vulnerable individuals who are 18 and over from harm.
- 3.6 The legislation was to a large extent prompted by the Jay and Casey reports on child sexual abuse and exploitation (CSAE) in Rotherham. Both of these reports highlighted examples of taxi / private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused or sexually exploited.
- 3.7 A public consultation on draft statutory guidance ran between 12 February 2019 and 22 April 2019. Following lengthy consideration of the consultation responses, the Department for Transport published guidance entitled Statutory Taxi & Private Hire Standards (hereafter referred to as "the Standards") on 21 July 2020.
- 3.8 The Standards contains a number of recommendations regarding matters connected to taxi and private hire licensing functions including:
- Criminality checks for licence holders
 - Working with the Police
 - Sharing information with other licensing authorities
 - Dealing with complaints about drivers and operators
 - Training for Members
 - Criminal convictions and rehabilitation of offenders
 - Safeguarding awareness advice, guidance and training for drivers
 - Language proficiency
 - CCTV in licensed vehicles
 - Regulation of booking and dispatch staff
 - Record keeping

3.9 The Statutory Standards state that:

“Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups.

The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.”

3.10 It is clear therefore that it is the desire of the Government to see some consistent standards applied by taxi and private hire licensing authorities across the country.

3.11 On 8th March 2021, Members of the Licensing Committee were presented with a copy of a draft Hackney Carriage and Private Hire Licensing Policy for consideration. A copy of the draft policy can be seen at **Appendix 1**.

3.12 The draft policy was based on a template that had been created with a view to each of the six district Councils in Worcestershire adopting new policy statements that are substantially similar to one another, particularly in relation to the licensing of hackney carriage and private hire drivers and private hire operators.

3.13 Whilst a large number of the recommendations set out in the statutory standards were already met within the Council’s existing policies, the draft policy had been drafted so as to incorporate any of the recommendations that were not already being followed.

3.14 The creation of the draft policy also provided an opportunity to carry out consultation on some amendments to the Council’s policy proposed at previous meetings of the Licensing Committee. These were:

- The introduction of requirements in relation to the display of approved signage on licensed vehicles (vehicle livery)
- Amendments to the vehicle age limits for hackney carriage and private hire vehicles designed to encourage the take up of less polluting vehicles

- 3.15 The draft policy also included some amendments to policy that had previously been consulted upon by the Council and which had been approved by Members. These were:
- Changes to the requirements in place for applicants and licence holders to demonstrate their medical fitness
 - The removal of the requirement for licensed drivers to undertake a practical driving assessment every 3 years.
- 3.16 Members resolved that officers should undertake consultation on the draft policy that was presented to them at the Licensing Committee meeting on 8th March 2021 subject to some amendments agreed by Members during their debate.
- 3.17 Consultation was undertaken over a 12-week period between May and August 2021.
- 3.18 Consultation was undertaken via a survey that was available to complete online. Paper versions of the consultation survey were also made available for those that wished to respond in that way.
- 3.19 Information on the consultation, along with details on how to respond were sent to:
- Those licensed by Redditch Borough Council to drive or use a vehicle as a hackney carriage or private hire vehicle
 - Those licensed by Redditch Borough Council to operate private hire vehicles
 - Redditch Taxi Association
 - National Private Hire and Taxi Association
 - Licensed Private Hire Car Association
 - West Mercia Police
 - Safer Roads Partnership
 - West Mercia Police and Crime Commissioner
 - Relevant contacts at Worcestershire County Council, including those responsible for safeguarding children and adults and arranging home to school transport
 - Relevant interest groups, including those that represent people with disabilities and the elderly
 - Relevant local business groups
 - Elected Members
- 3.20 The consultation was also available on the Council's website and was promoted via the Council's Communications Team, including via the Council's social media channels.

- 3.21 The questions asked of those consulted on the draft policy can be seen in the consultation document at **Appendix 2**. A summary of the responses received to each of these questions can be seen at **Appendix 3**.
- 3.22 Officers have reviewed these responses and do not consider that there are any compelling local reasons why those elements of the draft policy that are based on the recommendations in the statutory standards should not be implemented.
- 3.23 A number of other comments and observations were received during the consultation exercise and officers have considered these and propose responses that are set out in the table below.

Comment / Observation	Officer's Response
Requiring drivers to subscribe to the DBS Update Service imposes additional costs on them.	Subscribing to the DBS Update Service will actually save drivers money as they will not need to undertake a fresh DBS check on a periodic basis.
Concerns over the robustness of the process undertaken when deciding whether to make a referral to the DBS.	A referral to the DBS will only be made in circumstances where a decision has been taken to refuse or revoke a licence and where the individual is thought to present a risk of harm to a child or vulnerable adult. A robust process will be in place and a Senior Officer will review any decision to make a referral to the DBS. If a person is added to one of the barred lists by the DBS following a referral from the Council, there are routes of appeal available to that person.
Concerns over the convictions guidelines and how these will be applied in practice if a driver receives multiple driving licence endorsements for speeding.	The convictions guidelines are those recommended in the statutory standards and are clear that each case will be considered on its individual merits.

REDDITCH BOROUGH COUNCIL

LICENSING COMMITTEE

21st March 2022

Comment / Observation	Officer's Response
Concerns about costs of mandatory safeguarding training	Mandatory safeguarding training is a key recommendation in the statutory standards and therefore officers do not believe that the potential costs are a compelling reason not to implement the requirement. However, officers will explore ways of providing the mandatory training as inexpensively as is possible.
Concerns over level of English language proficiency that will be required from drivers	The level of English language proficiency that will be required will be that which is suitable and sufficient to the role being performed, this will be guided by the relevant part of the statutory standards.
Concerns that working with the Police leads to a "guilty before innocent" approach.	Officers always carefully balance the duty to protect of the public against the rights of licence holders to be presumed innocent until proven guilty of allegations made against them.
Concerns that standards have dropped across Worcestershire due to some authorities allowing below standard drivers to join the trade.	The template upon which the draft policy has been based is also the basis for draft policies being considered for introduction across Worcestershire to try and ensure consistency in the standards applied to licence holders and to ensure the recommendations in the statutory standards are being implemented.

REDDITCH BOROUGH COUNCIL

LICENSING COMMITTEE

21st March 2022

Comment / Observation	Officer's Response
Concerns that costs will be increased if the Council only normally issues a "dual licence" or a licence to drive private hire vehicles only.	An individual will still be able to request a licence that only authorises them to drive hackney carriage vehicles. It is however intended that the costs and process will be no different regardless of whether someone is issued a hackney carriage drivers licence or a dual licence.
Driver licences should be issued for 10 years like a DVLA driving licence is.	Legislation does not allow a licence to drive hackney carriage or private hire vehicles to be granted for more than 3 years.
Concern about proposal to issue 5-year operator licences and suggestion that a 3-year licence should be issued instead.	<p>Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 says the following in respect of private hire operator licences:</p> <p><i>"Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case"</i></p> <p>The proposal in the draft policy is therefore in line with legislative requirements.</p>
Any livery signage needs to be magnetic so it can be removed at night for security reasons.	The precise design and format of vehicle livery signage has not yet been finalised at this stage and the draft policy allows flexibility in this regard. Magnetic signs are an option that can be explored.

REDDITCH BOROUGH COUNCIL

LICENSING COMMITTEE

21st March 2022

Comment / Observation	Officer's Response
Concerns about the cost of vehicle livery signage and who will be expected to meet this cost.	The precise design and format of vehicle livery signage has not yet been finalised at this stage and the draft policy allows flexibility in this regard.
The vehicle licensing policy should phase out the use of category CX vehicles by 2028.	Officers believe that it is not realistic or proportionate to expect the Council to only licence vehicles that are fully powered by electric or hydrogen or are classed as ULEVs by 2028.
Suggested that the Council gives more time for people to move to less polluting vehicles	Officers believe the draft policy strikes a realistic and proportionate balance between encouraging the transition to less polluting vehicles and ensuring that the licensed taxi and private hire trades remain economically viable
Questions about whether the required infrastructure is in place to support the move to electric vehicles.	Officers recognise that having in place the required infrastructure is vital to the transition to less polluting vehicles, not just within the taxi and private hire trades but more broadly as the Government phases out the manufacture of petrol and diesel fuelled vehicles. For this reason the draft policy is not drafted in such a way as to seek to remove all petrol and diesel fuelled vehicles within unreasonable and unrealistic timescales.

REDDITCH BOROUGH COUNCIL

LICENSING COMMITTEE

21st March 2022

Comment / Observation	Officer's Response
Concerns that financial impact of the pandemic means drivers cannot afford to replace their vehicles and need to be allowed to licence older vehicles.	The draft policy increases the maximum age limit for saloon style hackney carriage and private hire vehicles from 9 years to 10 years. The draft policy then increases the age limits further still for ULEVs and vehicles that are fuelled solely by electric or hydrogen.
A person whose vehicle licence has been automatically revoked under section 68 of the Local Government (Miscellaneous Provisions) Act 1976 should be allowed more than 2 months within which to apply to have the licence reissued due to delays with insurance companies handling claims and arranging repairs.	The draft policy provides two months after the licence has been automatically revoked. The automatic revocation occurs two months after the vehicle licence is suspended. Therefore in total a licence holder is provided four months in which to have their vehicle repaired and made fit for use again. Officers believe this should provide sufficient time for the vast majority of insurance claims to be dealt with.
The condition requiring licence holders not to engage in inappropriate conversations with passengers is too vague.	It is not considered possible to set out exactly which topics of conversation should be avoided and all parties (licence holders and officers) will be expected to adopt a "common sense" approach to the issue.
Concerns about requirement to retain insurance documents for 12 months from the date of expiry	Officers do not consider this to be an unreasonable or disproportionate requirement to include in licence conditions.

REDDITCH BOROUGH COUNCIL

LICENSING COMMITTEE

21st March 2022

Comment / Observation	Officer's Response
<p>A condition should be attached to driver licences prohibiting drivers from speaking on a phone with a passenger in the vehicle.</p>	<p>Officers believe that it whilst licence holders should avoid speaking on their mobile phones whilst carrying passengers, it would be disproportionate to impose this condition as there may be circumstances where speaking to someone on the phone is important or necessary. Clearly, any use of mobile phones by a licence holder would have to comply with relevant laws in place.</p>
<p>Suggestion that more enforcement checks are carried out, including in relation to the parking of private hire vehicles on taxi ranks.</p>	<p>Officers are keen to carry out as many enforcement and compliance checks as possible and it is hoped that aspects of the draft policy will make it easier to direct resources to such tasks.</p>
<p>All vehicles should be required to display signage.</p>	<p>Officers agree that the vast majority of licensed private hire vehicles should be required to display an external licence plate. However the draft policy provisions on providing exemption from the requirement to do so, are considered to strike a proportionate balance between the protection of the public and the legitimate business needs of those who operate executive hire and chauffeur services.</p>

REDDITCH BOROUGH COUNCIL

LICENSING COMMITTEE

21st March 2022

Comment / Observation	Officer's Response
Operators should be prevented from holding licences from multiple different licensing authorities and utilising vehicles licensed by other authorities to fulfil bookings they have accepted.	Whilst officers recognise concerns about "cross-border" hiring of hackney carriage and private hire vehicles, the legislation that is in place currently does not allow a local authority to restrict a private hire operators right to trade in this way and to hold operator licences issued by multiple licensing authorities.
Only guide dogs should be allowed in a taxi or dogs in a carrier.	<p>The law requires taxi and private hire licence holders to transport all types of "assistance dogs" and to not charge extra for doing so.</p> <p>Licence holders have discretion in relation to the transportation of other animals.</p>
Hackney carriage tariff rates should be displayed in metric units rather than imperial units	This is not a matter relevant to the draft policy. The current table of fares displays both metric and imperial units.
Vehicle testing should be reduced to one test per year.	Officers believe testing vehicles twice a year is an important requirement that helps protect the public from being transported in unsafe vehicles and that this requirement should therefore stay in place.

Comment / Observation	Officer's Response
Limit the number of licences being issued in Redditch.	<p>Current legislation only permits the Council to restrict the number of licences it issues to use vehicles as hackney carriages.</p> <p>The Council can impose such a restriction if, and only if, it is satisfied that there is no significant demand for the services of hackney carriages which is unmet.</p> <p>Officers do not believe there is currently sufficient evidence to justify a quantity restriction on the number of licences the Council issues to use vehicles as hackney carriages.</p> <p>An "unmet demand" survey would need to be undertaken to gather evidence. Such a survey would need to be funded and repeated periodically to ensure that no unmet demand remains.</p>

- 3.24 Having considered the responses received during the consultation exercise, the view of officers is that none of those responses has persuaded them that any changes need to be made to the draft policy that was consulted upon.
- 3.25 Members are therefore asked to have regard to the responses received during this consultation exercise and to approve the draft Hackney Carriage and Private Hire Licensing Policy at **Appendix 1** to take effect on 1st September 2022.

4. RISK MANAGEMENT

- 4.1 Failure to have regard to the guidance issued under section 177 would leave the Council in breach of a legal duty to do so.
- 4.2 Although it remains the case that the Council must reach its own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the Standards without sufficient justification could be detrimental to the authority's defence.

5. APPENDICES

- Appendix 1 - Draft Hackney Carriage and Private Hire Licensing Policy
- Appendix 2 – Consultation questions
- Appendix 3 – Consultation Responses Summary

AUTHOR OF REPORT

Name: Dave Etheridge – Principal Licensing Officer
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcsregservices.gov.uk

Tel: (01905) 822799