

Crawley Borough Council

Report to Licensing Committee

13 September 2021

Review of Hackney Carriage and Private Hire Licensing Policy

Report of the Head of Community Services – HCS/31

1. Purpose

- 1.1 To further update the Licensing Committee on the range of proposed changes to the Council's Hackney Carriage and Private Hire Policy ("Policy") including those arising from the proposals contained in the Departments for Transport's (DfT) Statutory Taxi and Private Hire Vehicle Standards ("the Standards"), of 21st July 2020. <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 1.2 To inform the Committee of additional proposed changes to the Policy which incorporate a range of other issues intended to improve standards and services within the trade, placing public safety at the centre of all activities.
- 1.3 To seek the Committee's agreement to undertake a consultation exercise in respect of proposed changes to the Policy.

2. Recommendations

- 2.1. That the Committee considers the report and decide what amendments, if any, it wishes to make to the proposed revised draft of the Policy (Appendix 2).
- 2.2 The Committee agrees a final consultation draft of the revised Policy.
- 2.3 That the Committee authorises the Head of Community Services, in consultation with the Cabinet Member for Environmental Services and Sustainability, to undertake a consultation exercise for a minimum of 4 weeks.
- 2.4 That the Committee notes that a further report will be prepared for consideration at the Licensing Committee post-consultation which will detail the responses to this consultation with a view to the Committee then considering what changes, if any, to make to the Policy in light of the consultation responses.

3. Reasons for the Recommendations

- 3.1. The primary purpose of the licensing regime is to protect public safety. The Council, as licensing authority, is responsible for licensing in excess

of 780 vehicles, which undertake a large number of local and national journeys. It also licences approximately 1000 individuals as drivers who must be 'fit and proper' to hold a licence as well as a number of private hire operators.

- 3.2. In July 2020, the Department for Transport (DfT) published the document entitled '*Statutory Taxi & Private Hire Vehicle Standards*' under section 177(1) of the Policing and Crime Act 2017. The focus of these Standards is on protecting children and vulnerable adults from harm, however naturally all passengers would benefit from any changes made as a result of the implementation of the Standards. The document sets out a framework of policies which licensing authorities must have regard to when exercising their functions. The DfT expects all recommendations within the Standards to be implemented unless there is a compelling local reason to not do so.
- 3.3. When looking to incorporate the DfT Standards it was noted that several other areas within the Policy needed revision, hence the matter being brought back to Committee to approve a final consultation draft.
- 3.4. The Standards have been widely publicised as a means to raise awareness.

4. Background

- 4.1. At the Licensing Committee meeting on 9th November 2020, Committee members considered the Department for Transport's (DfT) recently published Statutory Taxi and Private Hire Vehicle Standards, published on 21st July 2020. A copy of the Committee report and content approved by the Committee can be found here: <https://democracy.crawley.gov.uk/documents/s15104/HCS22%20-%20Department%20for%20Transport%20Statutory%20Taxi%20Private%20Hire%20Standards%20-%20Overview%20of%20the%20Standard.pdf>
- 4.2. The Standards set out a range of robust measures to protect private hire and hackney carriage passengers. The Standards are designed to strengthen and improve local authorities' existing policies and practices. They also set out steps to help licensing authorities work together to ensure that public safety is the primary concern of the hackney carriage and private hire licensing regime.
- 4.3. The Committee authorised the Head of Community Services, in consultation with the Cabinet Member for Environmental Services and Sustainability, to undertake a consultation exercise for a minimum of 4 weeks in order to raise awareness of the Standards.
- 4.4. However, on re-visiting the current Policy in anticipation of the consultation exercise, it has been identified that further, more extensive revisions were required to make it fit for purpose. A copy of the current Policy can be found here: [Crawley Borough Council's Private Hire and Hackney Carriage Licensing Policy 2017.](#)

- 4.5 Given the extent of the proposed changes, the matter has been returned to the Licensing Committee for further consideration and for the Committee to approve the final consultation draft prior to its release for consultation.

5. Department for Transport's Statutory Taxi and Private Hire Vehicle Standards

- 5.1. The Licensing Committee at its meeting in November 2020 has already considered the Standards. Committee members will recall that the Standards have been issued in light of evidence to support the view that taxis and private hire vehicles are a high-risk environment, specifically in terms of risks to passengers.
- 5.2. The statutory guidance sets out a framework of policies that licensing authorities "must have regard" to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire licensing regimes.
- 5.3. The Council as Licensing Authority is free to reach its own decisions on overall policies and individual licensing matters in light of relevant law. However, it is likely that the new statutory guidance might be drawn upon in any legal challenge to the authority's practice and that any failure to adopt the Standards without sufficient justification could be detrimental to the Council's defence.
- 5.4. The recommendations in the statutory guidance are highlighted below, with the section they appear in the statutory guidance and our current position and any proposed recommendations underneath it. However, when formulating a Policy, the primary function and overriding objective must be to protect the public.

"3.5 Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually. "

- **Action:** The current Taxi and Private Hire Licensing Policy was adopted in 2017, with the inclusion of Appendix L in 2019. The full Policy was scheduled to be reviewed in full in 2019-2020, but was delayed due to the COVID-19 pandemic.

"3.8, 3.10 Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly."

- **Action:** Crawley Borough Council has a well published whistleblowing policy that can be found on the Council's intranet <https://crawley.paprys.com/Whistleblowing>.

"3.13 Licensing authorities should engage with neighbouring areas to identify any concerns and issues that might arise from a proposed change to the licensing regime."

- **Action:** The Taxi Licensing Service already liaised with all neighbouring authorities when the new policy was proposed and attends regional groups to discuss issues arising including Policy, operational practice and legislative matters.

“3.14 Any changes in licensing requirements should be followed by a review of the licences already issued.”

- **Action:** The Council's current licensing requirements are already similar to those set out in the statutory guidance and therefore the small number of applicants who do not meet either the Council's existing Policy or the proposed guidance will have already had their applications granted after consideration on a case by case basis by a Council Enforcement Panel or Magistrates Court, upon appeal.

“4.11 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put into place immediately. Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.”

- **Action:** The Taxi Licensing Service already has a good working relationship with the common law disclosure unit at Sussex Police and data sharing arrangements are in place.

“4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and motoring conviction. An arrest for any of the offences within this scope should result in review by the issuing authority as to whether the licence holder is fit to continue to do so.”

- **Action:** The Council's current Policy states that licence holders must inform the Taxi Licensing Team within 7 days. The new Policy seeks to revise this to 48 hours. Given the disclosure arrangements in place with the Police, this generally happens more rapidly, particularly in the case of serious offences including violence safeguarding and sexual issues where there is a potential risk to the public.

“4.14 A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the Disclosure and Barring Service (DBS).”

- **Action:** This is not currently stated in the Policy, but will be included as part of the new Policy.

“4.17 The Police are an invaluable source of intelligence when assessing whether a licensing applicant is a ‘fit and proper’ person. It is

vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective relationship, action taken by the licensing authority as a result of information received should be fed-back to the Police.”

- **Action:** This is already standard practice and will continue.

“4.20 Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or licence revoked or suspended by any other licensing authority.”

- **Action:** This is a mandatory question on the Council’s application form. Where an application indicates that any of the above applies, the team then submits a data request to the Licensing Authority in question to seek further information.

“4.21 Tools such as the national register for taxi and private hire vehicle driver licence refusals and revocations (known as the NR3 register) should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.”

- **Action:** The NR3 register is hosted by the National Anti-Fraud Network (NAFN) of which the Council is already a member. The new Policy seeks to incorporate this, and the team will update and refer to this accordingly.

“4.29 All licensing authorities should have a robust system for recording complaints, including analysing trends across all licenses as well as complaints against individual licensees.”

- **Action:** There are currently many ways in which members of the public and the taxi trade can report their concerns to the Taxi Licensing Service. All complaints are linked to a driver, vehicle or operator wherever possible via the UNIFORM database and the current Policy details a system of advice/warning letters and Penalty Points that may be issued following complaints or concerns. Sanctions can also include suspension, revocation and a refusal to renew licences.

“5.3 All individuals that determine whether a licence is issued should be required to undertake sufficient training.”

- **Action:** All officers determining licensing matters and members of the Licensing Committee and Licensing Sub Committees are required to undertake training before they may sit on the Committee or other decision-making body.

“5.11 All licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.”

- **Action:** The Council's Constitution and procedures supporting this, including determination by an Enforcement Panel, have to be followed where a licensed driver is convicted, charged with or alleged to have committed a sexual or violent offence or other serious misconduct. This procedure allows for the immediate revocation of the licence and is well established.

“6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants.

In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.”

- **Action:** The current Policy states that the Council as Licensing Authority will consider each case on its own merits, it is highly unlikely that a licence would be issued to an applicant on a DBS barred list. The team will also communicate with DBS on matters of concern.

“6.2 All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers who do not subscribe to the Update Service should still be subject to a check every six months.”

- **Action:** Different levels of DBS checks are already undertaken at the time of application and on renewal of licences. The new Policy states that all drivers must sign up to the Update Service on renewal or application.

“6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training.”

- **Action:** The current Policy makes reference to this, but the new Policy formalises this as a requirement. The Taxi Licensing Team is working with Sussex Police and West Sussex County Council and other providers to prepare a bespoke course covering key elements of safeguarding and exploitation. A series of questions relating to this will also be incorporated into the Knowledge Test in due course.

“6.14 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives above.”

- **Action:** All new drivers must attend new driver training and pass the Disability Awareness Test and Knowledge Test. However, the new Policy seeks to set a minimum standard that is required in relation to oral and written English language.

“7.1 The objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all safe. It is important therefore

that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Licensing authorities should require a basic disclosure from the DBS and that a check is taken annually.”

- **Action:** This is an existing requirement in the Council's Policy.

“7.7 It is the DfT’s view that CCTV can provide an additional deterrent to prevent harm to passengers and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi and private hire passengers and drivers by deterring and preventing the occurrence of crime, reducing the fear of crime, assisting the Police in investigating incidents of crime and assisting insurance companies in investigating motor vehicle accidents.

All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.”

- **Action:** The Council's current Policy incorporates the provision of CCTV, which can play an important role to both protect the public and the driver. The current CCTV arrangements and conditions need to be reviewed more widely in relation to the evidential quality, standards and requirements of such. Further consideration is needed in relation to data management and control measures that will need to be fully understood before any decision can be made to revise the Policy.

“8.2 Licensing authorities should request a basic disclosure from the DBS for all private hire operators and that a check is undertaken annually.”

- **Action:** The Council already requires a standard DBS check for all operator licence applications. The new Policy will require the holder of an operator licence to be undertaken every 12 months.

“8.8 Licensing authorities should, as a condition of granting an operator’s licence, require a register of all staff that will take bookings or dispatch vehicles is kept.

Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.

Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above.”

- **Action:** This is not currently covered in the Council's Policy, but will be incorporated in the new Policy.

“8.13 Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking, The name of the passenger, time of the request, pick up point, destination, name of driver, driver’s licence number, registration number of the vehicle, name of any individual that responded to the booking request and the individuals that dispatched the vehicle.”

- **Action:** The current operator licence conditions require this already, but will also include the dispatcher’s details.

“8.16 The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicles booking should not be permitted as a condition of the private hire vehicle operator’s licence without the informed consent of the booker.”

- **Action:** Public Carriage Vehicle (PCV) drivers are drivers that drive PSVs. These are often minibuses or other vehicles operated under the PSV system, often over 8 passenger seats, but not always. These drivers are not required to be determined as ‘fit and proper’ and do not undergo the same checks as our licensed drivers. Legally, the Council can only regulate taxis and private hire vehicles. So it is recommended that this condition is not added to the Policy.

“9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries.”

- **Action:** Joint authorisation of officers is already in place and the Taxi Licensing Service already works very closely with neighbouring authorities and Sussex-wide via the Taxi and Private Hire Working Group, attended by local authorities, Police, the Home Office and other regulatory bodies.

5.5 The Guidance states that in the interests of transparency, all licensing authorities should publish their consideration of the measures contained in the Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.

5.6 The DFT has undertaken work to monitor the effectiveness of the Standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

5.7 Committee members will note that there are some recommendations within the Standards yet to be fully considered or implemented as these require further investigation.

6. Wider Policy Review

6.1. When looking to incorporate the Standards, it was evident that several areas of the current Policy require updating to reflect current practice and legislative change, placing public safety at its focus, whilst also making the Policy more accessible, easier to understand and easier to enforce key elements of the licensing regime. As noted previously, a full review of the Policy was scheduled for 2020 – 2021 but was delayed due to the COVID-19 pandemic.

6.2. In respect of the Limitations Policy, no Unmet Demand Survey has been undertaken as yet due to the COVID-19 pandemic and the unrepresentative nature of activity by the Taxi Trade. This will take place in the near future.

6.3. Further work and consultation is needed to update the Hackney Carriage Byelaws as well as Vehicle, Operator and Driver Licence Conditions. The Committee will also be asked to re-visit the Council's Emissions Strategy in relation to licensed vehicles since there have been some changes since a consultation on a proposed Policy was considered by members.

6.4. For ease of reference, the key modifications and changes to the Policy are listed below. A summary of the key changes is included in a table at **Appendix 1.**

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| - Aims of the Policy | New |
| - Definitions and terms | Revised |
| - "Write offs" and decision not to licence other than specific category | New |
| - Vehicle emissions | Further review needed and consultation will be actioned in the next 6 months |
| - CCTV – new audio and visual requirements | Further review needed, research and consultation needed. Actioned in the next 6 months |
| - Livery | Revised |
| - Use of partition screens | New |
| - Wrapping of vehicles | New |
| - Insurance liability | New |

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| - Smokefree vehicles | New |
| - “Fit and proper” overview | New |
| - Eligibility to work | Revised |
| - Certificate of Good Conduct | Revised |
| - Safeguarding & Disability Awareness Training | Revised |
| - NR3 National Register of Taxi Licence Refusals & Revocations | New |
| - Partnership working | New |
| - Criminal Record Checks – Applicants, Operators, booking and dispatch staff. Includes level and frequency of check | Revised |
| - Penalty Points & Code of Conduct Scheme | Revised |
| - Equality Duty | New |
| - English Language Proficiency Minimum Standards (Oral & Written) | New |
| - Council’s Code of Conduct and Penalty Points Scheme | Revised |
| - Appendix L – Enforcement | Revised |
| - Initial review of the Vehicle, Operator, Driver licence conditions | Revised but further review and consultation required in the next 6 months. |

6.5 A table of the proposed changes is included at **Appendix 1**.

6.6 The proposed revised Policy is included at **Appendix 2**.

6.7 Once approved, the consultation draft will be afforded easy access links and a QR code to maximise accessibility.

7. Financial & Legal Implications

7.1 The Taxi Licensing Service is self-financing and the costs associated with the service are recovered from licence holder fees and charges.

- 7.2 In some parts of the Policy where there is a revision which has a financial implication for the trade, transitional arrangements are in place, save where these are imposed as part of the statutory guidance.
- 7.3 Licensing authorities are under a legal duty, under section 177 of the Policing and Crime Act 2017, to have regard to statutory guidance (which incorporates the Standards) when exercising any of their functions under taxi and private hire legislation.

8. Background Papers

- [Crawley Borough Council Private Hire and Hackney Carriage Licensing Policy 2017](#)
- [Crawley Borough Council Report HCS/22 to Licensing Committee - Department for Transport Statutory Taxi & Private Hire Standards: Overview of the Standards, Consultation and Implementation \(9 November 2020\)](#)
- [UK Government Statutory Taxi and Private Hire Vehicle Standards: statutory guidance](#)

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