

Crawley Borough Council

Report to Licensing Committee

1 March 2022

Review of Private Hire and Hackney Carriage Licensing Policy (Consultation Feedback)

Report of the Head of Community Services – HCS/38

1. Purpose

- 1.1 To provide the Licensing Committee with the responses received following the consultation exercise on the proposed wide-ranging changes to the Council's Private Hire and Hackney Carriage Licensing Policy ("the Policy").
- 1.2 For the Committee to consider whether to approve the draft revised Policy having considered the consultation responses.

2. Recommendations

That the Committee:

- 2.1 Considers the feedback from the consultation exercise on the proposed revised Policy.
- 2.2 Approves the draft revised Policy as set out in Appendix A, either:
 - i. without amendment; or
 - ii. amended;and for it to commence on 1 April 2022.
- 2.3 Delegates any future minor revisions to the Policy to the Head of Community Services, following agreement with the Cabinet Member for Environmental Services and Sustainability and the Chair of the Licensing Committee.
- 2.4 Agrees to consider a report later in 2022 regarding further revisions to the Policy, to address any remaining matters contained in the Department for Transport's Statutory Taxi and Private Hire Vehicle Standards as well as any other changes identified as a result of matters impacting public safety, as well as future operational and enforcement changes.

3. Reasons for the Recommendations

- 3.1 The primary purpose of the licensing regime is public safety. The proposed changes to the Policy strengthen measures to support and promote this.
- 3.2 The Council, as Licensing Authority, is responsible for the licensing of 123 hackney carriage and 545 private hire vehicles, which undertake a large number of local and national journeys.
- 3.3 The Council also licences 774 private hire drivers and 196 hackney carriage drivers. 103 licensed drivers have left the trade in the last 12 months due to death, license revocation, retirement, ill health and/or as a result of finding other employment. This is much higher than normally seen in a year, with many leavers citing the COVID-19 pandemic.
- 3.4 The number of drivers coming into the trade will likely rise once the face-to-face Knowledge Tests and Disability Awareness Tests re-commence at the end of March 2022. These had been put on pause, initially as part of a review and overhaul of the testing process and content, and sustained because of the onset of the COVID-19 pandemic. The refreshed testing process and content aims to raise standards and modifies the method of delivery.
- 3.5 In July 2020, the Department for Transport (DfT) published the document '[Statutory Taxi & Private Hire Vehicle Standards](#)' ("the Standards") under Section 177(1) of the Policing and Crime Act 2017. The focus of the Standards is on protecting children and vulnerable adults from harm, however 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 by licensing authorities, unless there is a compelling local reason to not do so.

4. Background

- 4.1 At the Licensing Committee meeting on 9 November 2020, members considered report [HCS/22](#) which outlined the Standards.
- 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, and 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 Council as Licensing Authority is free to reach its own decisions on overall policy and individual licensing matters in light of relevant law. However, the Standards should also be taken into account when shaping the Council's approach, and can be drawn upon in any legal challenge to the authority's practice. Any failure to adopt the Standards without sufficient justification could be detrimental to the Council's defence.

- 4.4 When looking to incorporate the Standards as part of the Council's existing Policy, it was noted that several other areas within the Policy needed revision to make it fit for purpose and to reflect safety, operational and service requirements.
- 4.5 At its meeting on 13 September 2021, the Licensing Committee considered report [HCS/31](#) and 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, as well as raising awareness of extensive changes proposed to the Policy where public safety is at its core.

5. Consultation Process

- 5.1 The proposed revised Policy was consulted upon between 13 December 2021 and 17 January 2022. A copy of the proposed revised Policy is included at **Appendix A**.
- 5.2 In order to try and seek the views of different organisations, individuals and partners as well as the trade and travelling public, a range of mechanisms were employed including the following (a full list of consultees is included at **Appendix B**):
- Inclusion of full details on the Council's website within the Consultation and Taxi Licensing pages
 - Letters and/or emails sent to every Crawley Borough Council licensed hackney carriage proprietor and private hire driver
 - Emails sent to all private hire operators
 - Email sent to the Chair of the Crawley Hackney Carriage and Private Hire Association
 - Direct emails to statutory partners
 - Collaborative working with CBC Community Safety colleagues to encourage responses from community and residents groups, and other stakeholders
 - Questions to stimulate interest in the consultation exercise and signposting via the Council's social media accounts.

6. Consultation Responses

- 6.1 In order to stimulate responses, a series of pertinent questions were asked within the online consultation. A copy of the report detailing the responses via the Council's Consultation page is included at **Appendix C**.
- 6.2 In summary, 57 respondents completed the questionnaire comprising of:
- Members of the public (37) 65%
 - Crawley Licensed Driver/Proprietors (16) 28%
 - Crawley Licensed Operator (0)
 - Other (4) 7%.

6.3 A further four responses were received via email to the Taxi Licensing Service, comprising of 2 licensed drivers, an elected councillor, and West Sussex County Council. These are included at **Appendix D**.

6.4 For ease of reference, the consultation feedback is set out under key headings below.

6.5 **The consultation process received support for six-monthly DBS checks, safeguarding training, English language skills and any other measures to promote public safety.**

Officer clarification: different level DBS checks are already in place but this represents an increase in frequency of checking and additional checks in relation to booking and dispatch staff.

6.6 **The consultation process received support for the use of the National Register of Revocations and Refusals (NR3) and other information-sharing processes to ensure drivers are fit and proper, and to promote public safety.**

Officer clarification: the service already uses NAFN and other partnership forums to research matters, share intelligence and liaise with neighbouring authorities as well as statutory partners including Sussex Police, Trading Standards and Fraud Networks.

6.7 **The consultation process received support for revisions to Appendix L of the Policy – Guidelines for the Relevance of Convictions etc. – but one respondent felt aspects were ‘out of proportion’.**

Officer clarification: the Appendix L requirements already form part of the current Policy but changes seek to strengthen matters and make this element of the proposed Policy easier to understand.

6.8 **The consultation process received support for all dispatch and booking staff to be DBS checked as well as private hire operators.**

Officer clarification: this is already part of the current Policy,

6.9 **Feedback was received in relation licensed driver medical assessments.**

Officer clarification: in common with other licensing authorities, the Council has required professional licensed drivers to attain Group II Medical Standards as a means to ensure fitness and to help ensure public safety.

Experience has shown that requiring Group II Medicals to be undertaken by an individual’s own GP provides a more comprehensive awareness of the individual’s medical history and matters which impact on medical fitness to become or remain a licensed driver.

6.10 Feedback was received about Disability Awareness Training

Officer clarification: this is already in place but its content and method of delivery is under review. The Service is also looking to work with West Sussex County Council to ensure it remains fit for purpose.

6.11 Feedback was received about Wheelchair Awareness Training

Officer clarification: the Council is working in partnership with West Sussex County Council to scope opportunities and deliver this to all drivers with wheelchair accessible vehicles. Committee members may wish to include this as a compulsory requirement going forward.

6.12 Feedback was received that some drivers want the Council to extend the licensable age of vehicles beyond the current 11 year term

Officer clarification: within the context of the consultation, 3 respondents enquired about the potential to extend the licence term of vehicles, with 1 suggesting this apply to purpose-built licensed vehicles. The rationale for an extension was attributed to the loss of earnings as a result of the COVID-19 pandemic. The Crawley Hackney Carriage Association has also made representations to this effect, albeit received outside of the consultation window.

A [Significant Operational Decision](#) was taken in February 2021 to allow a small cohort of licensed vehicles to be afforded a 12 month extension beyond the current 11 year age limit, on receipt of a request from the Crawley Hackney Carriage Association, due to challenges in being able to source a suitable vehicle, a loss of earnings and vehicles used less intensively due to the reduction in work as a result of the COVID-19 pandemic. This 12 month extension ran from 9 February 2021 to 8 February 2022, with certain conditions.

The primary purpose of the licensing regime is public safety, and this is the overriding consideration in all parts of the licensing process. It is a requirement that any licensed vehicle up to 4 years of age has an annual Certificate of Compliance Test via one of the Council's nominated garages. This is similar to an MOT, including testing mechanical fitness and compliance with the Council's licence conditions and byelaws.

After 4 years of age, a Certificate of Compliance is required every 6 months and/or when a new vehicle is brought into the trade, or has been out of the trade and suffered accident damage and wishes to be re-licensed. Mileage restrictions also apply.

Currently, the Policy states that licensed vehicles must cease operating at 11 years old. This parameter relates to when the vehicle is first licensed so it may mean that the vehicle comes out of the trade once that term of licence completes. As a courtesy, the Taxi Licensing team reminds vehicle proprietors of this limit one year in advance, and again as the vehicle is

reaching the 11 year age limit, to allow for arrangements to be made to obtain a new vehicle. Frequently, at this age, vehicles have very high mileage and have suffered significant wear and tear.

On occasion, the Taxi Licensing Team receives a request to extend the life of a vehicle for a range of reasons including: vehicle has low mileage, vehicle is in excellent condition, individual has been unable to source an alternative vehicle due to manufacture delays. Each case is considered on its merits and vehicles are assessed on a case by case basis. However, the primary concern remains public safety.

Licensing officers have previously inspected vehicles and in some instances required that a Certificate of Compliance be undertaken and issued by one of the Council's nominated garages.

In the case of the above, vehicles are currently only permitted to remain licensed for a further 3 months beyond the 11 year age limit (as a maximum) and this is applied to a very small number of cases by exception. It is proposed that this 'by exception' approach is retained.

Both private hire and hackney carriage drivers and vehicles have not been precluded from carrying out work during the COVID-19 pandemic, despite the various lockdowns. However, it is noted that for some, the level of available work declined. A series of grants were made available to support the licensed trade and emergency provisions made regarding vehicle testing and medical checks.

Any further extension of vehicles over 11 years old needs to be carefully considered and balanced against public safety amid a fleet of ageing vehicles. The Taxi Licensing Service has also noted that whilst vehicles in the trade are generally attaining the standards required as part of the Certificate of Compliance process, the Council's nominated garages are alerting the Service to higher numbers of advisory actions, indicating that vehicle proprietors are waiting longer to carry out maintenance to their vehicles or replace items, which is of significant concern. As noted previously, vehicles over 4 years of age must undergo six-monthly Certificate of Compliance checks. Officers also inspect vehicles on an ad hoc basis to check compliance and/or on complaint.

Research of other authorities has revealed that, in comparison, the current 11 year age limit is at the upper end (**Appendix E**). Furthermore, any extension to the 11 year age limit is contrary to the steps agreed by the Council's Licensing Committee in 2019 to tackle emissions within the hackney carriage and private hire trade and the climate crisis.

6.13 Feedback was received about compulsory CCTV

Officer clarification: this will be re-visited as part of a future Policy review once some legal queries have been resolved. CCTV conditions are already included in licence conditions but are not mandatory and do not include audio or specified retention periods or standards.

6.14 Feedback was received about an online licensed driver register to make details accessible

Officer clarification: this is currently being scoped by the Council's IT Service.

7 Future Review of Policy

7.1 Whilst the current conditions attached to the various licence types were included as part of the Policy consultation, it is recognised that there is a need to further review the Policy to include any further matters relating to the Standards, such as mandatory CCTV in vehicles, changes to licence conditions and other updates to reflect changes within the licensing regime, service delivery and operational practice.

7.2 In the future the Committee will also be asked to re-visit the Council's approach to air quality and emissions targets in relation to licensed vehicles. This remains a key issue.

At the Licensing Committee meeting in January 2020, report [HCS/21](#) set out proposals aiming to improve air quality in Crawley following the declaration of a climate emergency by the Full Council in 2019. Appendices A and E of the current Policy were consulted upon and scheduled to be updated after the 12 week consultation, and subject to a series of requirements. The key matters are:

- Only zero emission capable vehicles and those that meet Euro 6 petrol standards would be eligible to apply for a vehicle licence from 1 April 2022;
- Unless exceptional circumstances warrant exemption, all licensed vehicles would be required to meet Euro 6 standard by 1 October 2022; and
- Diesel fuelled cars would be phased out of the fleet entirely by 1st April 2027.

The emissions standards and proposed revision to the Policy was consulted on, but not progressed further as the Taxi Licensing Service was diverted to support the trade as a result of the COVID-19 pandemic. Since the original consultation, there have been further revisions to air quality and emissions targets.

7.3 In addition, revisions to the Policy will be recommended by officers to correct any typographical errors and to update information in relation to key processes, including DBS checks, HPI checks in the case of damaged vehicles and Certificate of Good Conduct requirements.

7.4 The Taxi Licensing Service has also noted that, in relation to the safety and compliance testing of licensed vehicles, there are a higher number of vehicles subject to advisory actions when completing the Certificate of Compliance process. It is the view of officers that this indicates that a proportion of drivers are not maintaining their vehicle in the same way as prior to the pandemic and are delaying matters, leading to advisory actions needing to be addressed. In the interests of public safety, the Committee will be asked that

any advisory matters contained within the Certificate of Compliance be actioned and completed within 30 days of being identified.

- 7.5 A further report covering these matters will be presented to the Licensing Committee later in 2022.

8 Financial & Legal Implications

- 8.1 The Taxi Licensing Service is self-financing and the costs associated with the service are recovered from fees and charges associated with the taxi licensing regime.
- 8.2 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 for where these are imposed as part of the Statutory Guidance.
- 8.3 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.

9 Background Papers

- [Crawley Borough Council's Private Hire and Hackney Carriage Licensing Policy 2017](#)
- [Report to Licensing Committee 20 January 2020 – Air Quality and Licensed Vehicles – Update to Appendices A and E of the Council's Hackney Carriage and Private Hire Vehicle Policy](#)
- [Report to Licensing Committee 9 November 2020 – Department for Transport Statutory Taxi & Private Hire Standards: Overview of the Standards, Consultation and Implementation](#)
- [Report to Licensing Committee 13 September 2021 – Review of Hackney Carriage and Private Hire Licensing Policy](#)
- [Significant Operational Decision – Licensed Hackney Carriage and Private Hire Vehicles – Extend 11 Year Age Limit due to Covid-19](#)
- [Department for Transport Statutory Taxi and Private Hire Vehicle Standards](#)

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