

Crawley Borough Council

Report to Licensing Committee

12 June 2023

Revision of Licence Conditions and Hackney Carriage and Private Hire Licensing Policy

Report of the Head of Community Services - HCS/060

1. Purpose

- 1.1 Following implementation of the latest [Hackney Carriage and Private Hire Licensing Policy](#) (“the Policy”) on 1st April 2022, revised on 7th November 2022, to further amend the content of this Policy and where relevant, licensing conditions to ensure regulatory compliance and to ensure that public safety remains the overriding purpose of the licensing regime.

2. Recommendations

- 2.1 That the Licensing Committee approves the amended wording and conditions of the Hackney Carriage and Private Hire Licensing Policy, as detailed in report HCS/060.

3. Reasons for the Recommendations

- 3.1 The primary purpose of the licensing regime and overriding principle is public safety. The proposed revisions to licence conditions and the Policy are designed to support and promote public safety.
- 3.2 The proposed changes seek to reinforce the principle of public safety, improve information sharing processes already in place, and raise the standards within the hackney and private hire trade, whilst also placing new obligations on the part of an applicant and/or current licence holder to notify the Council as Licensing Authority if they are placed under investigation, charged with an offence, and/or bailed by a regulatory body such as the Police, HMRC and/or the Home Office, referred to in the below as “licensee self-reporting”.

4. Background

- 4.1 An applicant for a Crawley Borough Council hackney carriage or private hire licence and/or a current licence holder must complete a number of mandatory courses and checks before being considered to be “fit and proper” to hold a licence. There are several stages that must be completed before an individual can secure a licence, including:
- An Enhanced Disclosure and Barring check to ascertain if there are matters of interest which could impact upon a person’s suitability to carry out the role of licensed driver.
 - An Advanced Driving Course with certification to confirm that individuals are competent and professional drivers.

- A Group II Medical Report and confirmation that an individual is able to attain the Group II Standards required for a licensed driver.
- Attainment of designated courses including Essential Safeguarding Training for Taxi Drivers, Wheelchair and Disability Awareness Training, Hackney Carriage and Private Hire Knowledge Tests, Communication and English Language Standards.
- Checks regarding DVLA licence status and endorsements, HMRC Tax Code verification, Right to Work, verification of identification and residential information.

4.2 In July 2020, the Department for Transport (DfT) published the document entitled [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 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, including conditions relating to vehicles and drivers.

4.3 The Standards detailed within this document have largely been adopted by Crawley Borough Council as the Licensing Authority, with work ongoing in the following areas. These measures will be returned to the Licensing Committee for consideration later in 2023:

- Mandatory CCTV (both audio and visual)
- Additional mandatory training to ensure that applicants and licence holders exhibit the highest standards and are appropriately trained in a range of matters within the Trade
- Additional mechanisms in relation to vehicle livery, emissions and safety standards.

4.4 It is worth noting that there is no judicially approved test of what makes a person “fit and proper” to hold a licence but the Policy currently in place covers this aspect in some detail. The Standards also state at 5.12:

“Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a ‘fit and proper’ person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.”

4.5 The following extracts from the Standards are also particularly relevant as part of the updates proposed to the Policy.

“1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department’s Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).”

“2.1 The Department of Transport recommend that these (Standards) should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.

“2.2 Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers”

5. Proposed Revisions To Policy

- 5.1 The proposed revisions to the Policy aim to strengthen and re-enforce existing information and requirements already detailed in the Policy in relation to disclosure, partnership working with regulatory bodies and other local authorities to ensure that the “fit and proper” test has been met.
- 5.2 Additionally, there are minor revisions to the Policy to correct administrative errors, changes in practice as well as procedures (currently under review) and to ensure that both Guidance information, Policy content and Licence conditions correspond with one another. This includes:
- New applicants to have no more than 3 DVLA Penalty Points on their licence for any driving related matter when first applying for a licence to ensure the highest standard of applicants at the time of first being licensed
 - Revisions to references to UK driving licence revised to require an applicant having held a full GB or Northern Ireland driving licence, or a full EU driving licence for at least 12 months
 - Requirement that applicants read and keep themselves apprised of the Council’s Hackney Carriage and Private Hire Licensing Policy
 - Remove references to he/him and she/her and replace with they or their to recognise equality and diversity
 - Other minor administrative revisions to typographical errors and/or to offer clarity.

Sharing of Information

- 5.3 The Policy revisions offer further detail regarding the increased opportunities to share information with other local authorities, in particular, via the national register of taxi and private hire vehicle driver licence refusals, suspensions and revocations via this register, “NR3S”.

NR3S (NAFN)

- 5.4 The Policy already makes reference at 3.22 regarding the use of the national taxi register of refusals and revocations (NR3)(NAFN).
- 5.5 From the 28th April 2023, the use and updating of this register is a mandatory function which must be carried out by all local authorities, and this Authority has advised all licensed drivers and applicants of this. Steps will include populating historical data in relation to suspensions, revocations and refusals. The recording of suspensions (medical and others since it is considered by the Government that this is still a risk to public safety) is a new requirement, necessitating revision to the Policy.
- 5.6 It is proposed that the Policy is revised to read as follows with the changes **in bold**:

“3.22 National Register of Taxi Licence Refusals, **Revocations and Suspensions**

3.22.1 The Council provides information to the National Register of Taxi Licence Refusals and Revocations (NR3S) (NAFN). This allows licensing authorities to share details of individuals who have had a hackney carriage or private hire licence **revoked, refused and/or suspended**. All applications for a new licence or licence renewal will automatically be checked on NR3S. **Any information received from another local authority, or regulatory partner may result in a check of NR3S being carried out in respect of an applicant and/or licence holder prior to the issue of a licence and/or during the currency of any licence. Any information identified as a result of an NR3 search will only be used in respect of the specific licence application, or in relation to an existing licence as applicable, and will be referred to as part of the checks carried out to ensure that individuals are able to meet the specified standards and are and continue to be “fit and proper”. Any information identified as a result of sharing of information by local authorities, be it by NR3S or via other data sharing means, may be considered in deciding whether to grant, renew, refuse, revoke or suspend a licence.**”

Additional Compliance Checks

HMRC Tax Code & Checks

5.7 Since the implementation of the Policy, additional requirements have been placed on local authorities to carry out an HMRC Tax Code Check in respect of licence applicants/holders. The tax check, in place since 4th April 2022, is a simple check to confirm that someone has appropriately registered for tax and applies when licences are renewed, and/or where an applicant has held a hackney carriage or private hire licence previously within specified timescales elsewhere. It is the responsibility of the regulatory authority, Crawley Borough Council to ensure the driver is registered with HMRC for tax and provides the relevant code which is then checked. Failure to provide a code within specific circumstances means that a licence application or renewal cannot be processed. The tax code checks have been carried out since 4th April 2022, with drivers provided with explanatory notes, as well as website information, and so it is considered timely and appropriate to incorporate this into the Policy.

5.8 It is recommended that the following information be included in the Policy as a new section after NR3S (with consequential numbering changes) as follows:

“Applicants for the following licences and those renewing licences may need to complete a tax check if applying for a licence as hackney carriage or private hire driver and/or a private hire operator. The rules for completing a tax check changed on 4 April 2022 in England and Wales. An individual, company or any type of partnership must complete a tax check as required by HMRC when:

- **renewing a licence**
- **applying for the same type of licence previously held, that stopped being valid less than a year ago**
- **applying for the same type of licence already held with another licensing authority**

Individuals will not need to complete a tax check and must check, following the [confirm your tax responsibilities guidance](#), if they have:

- **never held a licence of the same type before**

- had a licence of the same type that stopped being valid a year or more before making this application

A tax check must be carried out by the person in question and confirms that individuals or partnerships are properly registered for tax, if necessary. It will ask questions about how tax is paid that may be due on income earned from working in the licensed trade. After completing the tax check, a 9-character code will be issued. This tax check code must be provided to the Taxi Licensing Service. Without this, an application cannot be processed. Tax check codes expire after 120 days, and a new tax code will be required if further licence/s are sought after this.”

Revisions to Enforcement (Appendix L)

- 5.9 Revisions to wording in Appendix L (Enforcement) to offer greater clarity and require that new applicants for licences do not have any more than 3 DVLA Driving Penalty Points or other endorsements at the time of application and that this aspect should be revised to read (proposed changes **in bold**):

“2.4 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed or the date on **which DVLA Penalty Points were imposed for driving offences if no fine**) before a licence will be granted.

A new application will not normally be considered or granted if the individual has more than 3 DVLA Penalty Points endorsed on their licence until such time as the matter is removed from a licence. (This includes any Penalty Points, banning period or other sanction.)

.... In respect of convictions of existing licence holders who have committed offences as specified below, their licences will be revoked and the periods below should then elapse following completion of the sentence (or the date of conviction if a fine was imposed or the date on which Penalty Points were imposed for driving offences if no fine) before a new licence will be granted.

11.0 Motoring Offences

11.1 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence (**not including a period where a person is banned from driving or other serious matter**) would not prohibit the grant of a licence, providing it does not result in **more than 3 Penalty points on a DVLA licence being accrued on application for a new licence** and may not result in action against an existing licence.

Subsequent convictions/offences resulting the issuing of Penalty Points reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a fit and proper person to be granted or retain a licence.”

Revisions to Driver Licence Conditions

- 5.10 Whilst it is already contained in the Policy at 3.9.2 regarding licensee self reporting to ensure that the Council as Licensing Authority is kept fully apprised, it is recommended that this wording be revised as follows:

“New applicants during the currency of their application to become a licensed driver (i.e. after submitting the application and any time up until a decision) and licensed hackney carriage and private hire drivers must, within 48 hours of an incident/occurrence, report in writing to this Licensing Authority the fact that they have been arrested, charged, **bailed, convicted, been issued with an immigration or other regulatory civil/financial penalty, issued with DVLA penalty points or are under investigation for any criminal matter, or subject to civil proceedings which could call into question a person’s fitness and propriety (such as but not limited to being the subject of bankruptcy proceedings or the subject of injunctive proceedings) or motoring offence. Similarly, they must notify the Council within 48 hours of any penalty points imposed on them for any driving offence or of any fixed penalty notice issued to them for any offence.”**

- 5.11 Further that at the Private Hire Driver Conditions, the following should be inserted in Appendix J to ensure that all licensed individuals notify the Council as Licensing Authority of matters as above (proposed changes in **bold**):

“9. Where any of the following occur, the licensed driver must notify the Council of this fact and must do so in writing (or by email to taxis@ Crawley.gov.uk), so that the notification is delivered to the Council within 48 hours, except in the case of medical matters at (h)

(a) Any change to the Licence Holder’s personal details including home address, contact telephone number or email address.

(b) If the Licence Holder is charged with any criminal offence including any motoring offence.

(c) If the Licence Holder has been arrested, charged, bailed, convicted, been issued with an immigration penalty or are under investigation for any criminal matter, or subject to civil proceedings which could call into question a person’s fitness and propriety (such as but not limited to being the subject of bankruptcy proceedings or the subject of injunctive proceedings

(d) Penalty points are imposed on the Licence Holder for any driving offence or of a fixed penalty notice is issued to the Licence Holder for any offence.

(e) If the Licence Holder receives a simple caution from the police for any criminal offence,

(f) If the Licence Holder is convicted of for any criminal offence, including any motoring offence.

(g) If the Licence Holders changes from one private hire operator to another.

(h) In the case medical matters, the Council must be notified immediately, and in any case prior to the driving of any licensed vehicle”

Knowledge of Hackney Carriage and Private Hire Licensing Policy

- 5.12 It is apparent when interviewing new applicants and current licence holders in relation to a range of matters including at the time of application, during renewal and when carrying out investigations into breaches of legislation, licence conditions, bylaws and this Policy that individuals have not read the Policy, nor kept themselves apprised of its content despite consultation and reminders to do so. It is therefore requested that

the following condition be included on grant and/or renewal of private hire driver licence conditions and that a paragraph be inserted into the Policy to cover this situation in respect of both the hackney carriage and private hire trade. This will help to ensure compliance and high standards within the Trades.

“The Licence Holder must read the Councils Hackney Carriage and Private Hire Licensing Policy, to include vehicle and driver licence conditions prior to carrying out the role of licensed driver, and ensure that during the currency of a licence that they keep their knowledge of the taxi licensing regime and Council Hackney Carriage and Private Hire Licensing Policy up to date for the duration of any licence that is issued to ensure compliance with the licensing regime.”

6. Financial & Legal Implications

- 6.1 The primary and overriding principle of the hackney carriage and private hire licensing regime is public safety.
- 6.2 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.
- 6.3 Councillors must ensure that they exercise their decision-making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 6.4 The Council is required to consider the impact any decision may have on crime and disorder in the area (Crime & Disorder Act 1998) which states as follows;
- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;
 - (a) Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment, and
 - (b) The misuse of drugs, alcohol and other substances in its area, and
 - (c) Re-offending in its area.
- 6.5 Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the ‘public sector equality duty’. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
 - (b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

- age
- disability
- gender reassignment marriage/civil partnership pregnancy/maternity race
- religion/belief
- gender and sexual orientation

7. Background Papers

- [Private Hire and Hackney Carriage Licensing Policy 2022-2026](#)
- [Report HCS/022 - Department for Transport Statutory Taxi & Private Hire Standards: Overview of the Standards, Consultation and Implementation \(Licensing Committee 09.11.20\)](#)
- [Report HCS/053 – Revision of Licence Conditions – Driver and Vehicle Policy \(Licensing Committee 07.11.22\)](#)

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