

Committee Name and Date of Committee Meeting

Licensing Board – 27 January 2020

Report Title

Review of Hackney Carriage and Private Hire Licensing Policy

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

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Ward(s) Affected

Borough-Wide

Report Summary

In July 2015, the Council introduced a Hackney Carriage and Private Hire Licensing Policy. This policy is widely seen to be setting the standard for other local authorities to benchmark against in relation to Taxi and Private Hire licensing.

However, the Council is committed to the concept of continual improvement and consequently is reviewing the current policy with a view to introducing amendments that will ensure that the standard of licensed driver, vehicle and operator in Rotherham continues to be of a high standard.

This report outlines the key changes being considered which are included in a revised policy, and requests a formal consultation response from the Licensing Board to the changes detailed.

Recommendations

1. That Licensing Board note the proposed changes to the Hackney Carriage and Private Hire Licensing Policy and that the chair of the Licensing Board provides a formal written response to the consultation on behalf of the board.

List of Appendices Included

- Appendix 1: Rotherham Metropolitan Borough Council DRAFT Hackney Carriage and Private Hire Licensing Policy 2020-2023
- Appendix A: Driver Application Process
- Appendix D: Driver Conditions
- Appendix L: Private Hire Vehicle Conditions
- Appendix M: Hackney Carriage Vehicle Conditions
- Appendix Q: Private Hire Operator Conditions
- Appendix T: Taxi Camera Requirements

(Only appendices that have been altered have been included within this report)

Background Papers

Taxi and Private Hire Vehicle Licensing: Protecting Users. Statutory Guidance for Licensing Authorities (February 2019)

Rotherham Metropolitan Borough Council Hackney Carriage & Private Hire Licensing Policy, https://www.rotherham.gov.uk/downloads/file/2473/rotherham_mbc_taxi_and_hackney_carriage_policy

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Cabinet – 23 December 2019

Council Approval Required

No

Exempt from the Press and Public

No

Review of Review of Hackney Carriage and Private Hire Licensing Policy

1. Background

- 1.1. In July 2015, the Council published a policy that set out the Council's approach to Hackney Carriage and Private Hire licensing. This policy set what are generally accepted as being the highest standards with regard to taxi and private hire licensing in the UK, and many of the standards have subsequently been adopted by other local licensing authorities, and included in revised national guidance.
- 1.2. The Council is striving to build on the foundation created by the policy, and maintain the position of the Council as being recognised as one of the leading authorities nationwide in relation to Hackney Carriage and Private Hire licensing.
- 1.3. The current policy is clear that periodic review is essential towards ensuring its success. A review process was set out in the policy that ensured the policy was reviewed twelve months after its introduction, followed by a formal policy review three years subsequently. The initial twelve month review was completed in July 2016, so it is now necessary for the policy to be subject to a formal review.
- 1.4. The policy brought significant improvement in the regulation of the taxi and private hire trade. It has ensured that drivers, vehicles, and operators are of the highest standard.
- 1.5. The current policy continues to be applied and performance is reported through both the Corporate Plan and the Licensing Service Performance Framework.
- 1.6. Within the past 12 months, the Licensing Service has proactively inspected 127 vehicles and drivers. 72% of vehicles were found to be compliant with licensing requirements. Of the 28% which were non-compliant, most were due to vehicle signage not being displayed correctly and all but two cases were rectified on the roadside.
- 1.7. 82% of drivers were found to be compliant with licensing requirements. Again, of the 18% which were non-compliant, driver identification was the most common cause and all but two cases were rectified on the roadside.
- 1.8. A total of 351 enforcement investigations have been undertaken in the past 12 months, resulting in one prosecution and seventeen revocations of licence. However, over 50% of investigations led to formal warnings and advice, showing how continuous improvement is an important part of the current enforcement process.
- 1.9. Since the current policy was introduced, new Statutory Guidance has been proposed by the Department for Transport. This commends the approach taken by this Council and states:

“Rotherham Metropolitan Borough Council (‘Rotherham Council’) provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.

One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area”.

- 1.10. This guidance recommends that licensing authorities introduce requirements around twenty three separate areas. All but one of these recommendations are currently implemented in Rotherham and have been since the current policy was introduced in 2015. The one existing recommendation which is not currently implemented in Rotherham is detailed as a key issue in Section 2.6 of this report. The best practice guidance further indicates the high regard that the current policy holds. However, despite being confident in the standards of the policy, a formal review is now necessary to ensure that the Council is still driving standards at a national level by enhancing current processes and standards, which will ensure the calibre of licence holder in Rotherham remains at the very highest level.

2. Key Issues

- 2.1. To support the process of the policy review, the Council has developed a number of proposals that could be considered for inclusion in a revised policy. Appendix 1 contains the draft Policy for consultation. Appendices where amendments are not proposed have not been included within this report, but are available at: https://www.rotherham.gov.uk/downloads/file/2473/rotherham_mbc_taxi_and_hackney_carriage_policy.
- 2.2. These proposals have been developed through:
- Initial discussions with representatives of the local licensed trade;
 - Recommendations in new statutory guidance;
 - Reflections of current working practices within the Licensing Service;
 - Performance data.
- 2.3. The proposals are explored in more detail below:

2.4. The Public Sector Equality Duty

2.4.1. The Equality Act 2010 places a duty on the Council to have due regard to:

- eliminate unlawful discrimination
- advance equality of opportunity between people who share a protected characteristic and those who don't
- foster or encourage good relations between people who share a protected characteristic and those who don't.

2.4.2. Whilst private organisations and individuals are not legally required to comply with the Duty, the Council considers that the Hackney Carriage and Private Hire Licensing Policy should require that drivers and operators behave in a way that supports this duty.

2.4.3. The Council therefore proposes adding clauses to the 'Fitness and Propriety' requirements for both drivers and operators, to be clear that any action by a driver or operator that would be in conflict with the Council's Equality Duty would be considered to be a breach of the fitness and proper person test.

2.5. Driver Medical Assessments

2.5.1. Drivers and applicants are required to satisfy the Council that they meet DVLA Group 2 Medical Standards; this is currently achieved through a medical examination which must be undertaken by the individual's registered GP. However, feedback from Trade representatives suggests that some drivers and applicants are experiencing difficulties in making an appointment for a medical examination with their registered GP. This is due to individual GPs not undertaking private work on a routine basis.

2.5.2. Therefore, to reflect the current arrangements, it is proposed that:

"Applicants shall provide a completed medical examination form supplied by the Council and completed by their own General Practitioner's (GP) practice on first application. A new medical will then be required at the next renewal after a driver reaches the age of 45. Thereafter, a medical will be required every six years until the driver reaches the age of 65 when a medical will be required annually. In exceptional circumstances, and with prior agreement from the Licensing Manager, a medical assessment can be carried out by another registered GP practice as long as the applicant's medical history has been viewed and assessed".

2.5.3. This change to the policy addresses the position of the licensed trade and has also been discussed with Rotherham Clinical Commissioning Group to explore the best solution to medical assessments being completed in a timely manner.

2.6. Basic DBS Checks for Ancillary Operator staff

- 2.6.1. Private Hire Operators have to obtain a Basic Level DBS check before an Operator's licence is granted. However, individuals that work in certain roles within Private Hire Operator bases have access to significant amounts of sensitive and personal information, but are not currently subject to any checks.
- 2.6.2. The benefits of background checks on such individuals are clear and therefore, the Council is proposing that all operators should obtain a Basic Level Disclosure certificate for all ancillary staff members whom have access to booking records or dispatch vehicles. These records would be required to be provided to the Council by the relevant Operator, for all such individuals.
- 2.6.3. A more detailed DBS check can only be requested if an applicant is proposing to work in a profession which is deemed to be eligible for an Enhanced DBS check. Although hackney carriage and private hire drivers are eligible for enhanced checks, Private Hire Operators and their ancillary staff are not, and therefore can only be asked to complete a Basic DBS check.
- 2.6.4. This is the only recommendation contained within the Department for Transport's Statutory Guidance that is not currently in place within Rotherham. Implementing this recommendation would further improve the Council's role in protecting the public, safeguarding children and the vulnerable, and the prevention of crime and disorder.

2.7. Refresher Training

- 2.7.1. The Council currently require all applicants to undergo safeguarding awareness training and pass appropriate driving and knowledge assessments. Once an applicant has fulfilled these requirements, there is no further requirement for any future assessment in relation to these matters.
- 2.7.2. This means that long-serving drivers may have been working for several years without undertaking any further knowledge or driving assessment. The Council are therefore proposing to introduce a requirement for drivers' knowledge and driving ability to be assessed at the point of licence renewal.
- 2.7.3. Furthermore, the Council believes that existing drivers would find it beneficial to undertake refresher training in relation to safeguarding vulnerable passengers. Although the implementation of the current policy sets a requirement for all drivers to complete this training, it is recommended that safeguarding awareness should be required at licence renewal. This would enable drivers to be educated about current and emerging safeguarding concerns.

2.8. Driver Identification

- 2.8.1. Legislation sets that all hackney carriage and private hire drivers have to identify themselves by “wearing a badge in such position and manner as to be plainly and distinctly visible”. Currently, the Council issue an identification badge and clip to all drivers for the duration of time in which they are licensed.
- 2.8.2. However, feedback from trade representatives is that this should be revised as the current approach, where drivers wear the badge on a lanyard or clip, is not secure, which can negatively impact on the driver’s focus, and is not always visible to passengers. The Council therefore proposes to give drivers a greater set of options for how they wear their badge, in order to address these issues. Although a clip or lanyard badge will still be an acceptable form of driver identification, drivers will be able to request an armband with a transparent pouch to be worn on their left arm, where their badge can be clearly seen by all passengers within the vehicle.
- 2.8.3. Other options are currently limited by legislation requiring badges to be worn upon the body. This means that permanently affixed badges within vehicles would not be lawful in isolation when adhering to the current legislation. However, to address feedback about the lack of visibility of identification in some circumstances, a proposed requirement for an internal notice identifying the driver is set out in 2.9.

2.9. Vehicle Signage

- 2.9.1. Following the previous review of taxi licensing in 2015, a new set of requirements were created in regards to vehicle signage. This included:
- a) A licence plate permanently affixed to the rear of the vehicle
 - b) A licence plate permanently affixed to the front of the vehicle
 - c) A sign / notice permanently affixed to each front door of the vehicle
 - d) A sign / notice permanently affixed to each rear passenger door of the vehicle
 - e) A notice permanently fixed to the interior glazed surface of the quarter light of both rear doors so that the contents of the notice are visible from the outside of the vehicle.
 - f) A notice permanently fixed to the interior glazed surface of the front windscreen so that the contents of the notice are visible from the outside of the vehicle.
 - g) A notice, clearly visible from the passenger seats / compartment, identifying the current driver of the vehicle.
 - h) The vehicle licence number must be permanently printed in white block letters (to a specification prescribed by the council) on the vehicle’s boot.

- i) The private hire vehicle licence number must be permanently printed in white block letters (to a specification prescribed by the council) on the bonnet of the vehicle.

2.9.2. Subsequently, with Commissioner's approval, only requirements a), c), e), and f) were actively introduced as requirements for drivers. However, the Council now believe that the remainder of the requirements should be brought into effect to ensure that the public can recognise a Rotherham licensed vehicle and its driver. Improving the amount of signage on and in vehicles would identify a 'Rotherham taxi' more effectively, meaning that users would have more confidence in licensed vehicles and their drivers.

2.9.3. In addition to the above signage requirements, the Council also proposes to require the 'audio activation' button for CCTV recording, to be clearly signed as such for passengers.

2.10. **Vehicle Camera Storage Capacity**

2.10.1. The current Policy requires that the vehicle camera system must be capable of recording and storing a minimum of fourteen twenty-four hour periods (336 operational hours) of images at a required standard.

2.10.2. An analysis of the use of taxi cameras in investigations has been undertaken as part of the review of the Policy. Of the 50 complaints received between July and September 2019, 33 required the service to request camera footage. In two cases camera footage was no longer available due to the passage of time.

2.10.3. The average time between a complaint being made and the time and date of the alleged incident was 9.2 days. The average time between the reported incident date and CCTV being obtained was 13.5 days. Whilst footage was unavailable in a very small number of cases, there is a risk that footage may not be available in some instances.

2.10.4. The Council therefore proposes to extend the requirement to twenty-one twenty-four hour periods (504 operational hours), to ensure that Officers have sufficient time, after a report is made, to obtain footage if needed.

2.11. **Incentivising Ultra Low Emissions Vehicles (ULEVs)**

2.11.1. The current policy states:

"The Council aims to encourage the uptake of low emission vehicles in the Borough, and will seek to examine the feasibility of introducing differential licensing fees for electric hybrid and ultra-low emission vehicles".

2.11.2. Whilst the Council has not currently included proposals to change this position in the new draft policy, it is proposed that detailed plans are drafted through the consultation process.

2.11.3. The Council recognises the environmental benefits of ULEVs and the positive impact that such vehicles could have on the achievement of local air quality targets and on the environment more broadly. With this in mind, the Council could consider incentivising vehicle owners to upgrade their licensed vehicles to help to combat the issues associated with emissions. This could be achieved in a number of ways; for example:

- Through increasing the licensable age beyond the current limit set by the Council, if vehicles meet a specific emissions standard;
- Offering reduced licence fees for more sustainable vehicles.

2.11.4. This proposal is closely aligned to the Sheffield and Rotherham Clean Air Zone. Although vehicles licensed by the Council do not have to comply with Category C specifications applied to licensed vehicles operating within the Sheffield zone, the benefits of moving to ULEV vehicles in order to operate in any Clean Air Charging Zone in Sheffield are clear.

3. Options considered and recommended proposal

3.1. When the policy was introduced in 2015, it stated that a formal review of the policy statement would be conducted at least every three years. An initial review of the policy was carried out in July 2016, meaning that the policy is now due to enter a formal review process.

3.2. As part of the review, Licensing Board members are an important consultee and should feed into the wider consultation process. There are two options available for Licensing Board as to how the board is involved in consultation:

3.3. **Option 1:** The Board can discuss the draft policy within this meeting, where minutes of the meeting are taken and can be used to document the discussion that takes place. The Chair of the Board would then submit a formal, written response to the consultation which is representative of the board. This is the recommended option.

3.4. **Option 2:** The board can discuss the draft policy within this meeting, where minutes of the meeting are taken and can be used to document the discussion that takes place. Officers would then facilitate written responses from each member of the board which would form a part of the consultation process.

4. Consultation on proposal

4.1. The draft policy is currently subject to a formal consultation process. The consultation will include, but will not be limited to:

- Representatives of the local Licensed Trade

- Council Members
- Licensing Board
- Members of the public
- South Yorkshire Police
- Groups representing older people, young people, people with disabilities and other similar groups
- Groups representing the interests of passengers
- NACRO
- Groups representing survivors / victims of crime
- Neighbouring Local Licensing Authorities.

4.2. It is essential that those affected by the policy are appropriately involved in its development. Therefore, the licensed trade and members of the public will be fully involved in the consultation process and their views and suggestions will be taken into consideration before a final policy is drafted.

4.3. The views of elected members, particularly those that have a role in relation to Hackney Carriage and Private Hire Licensing, are also critical to the review process and this report gives the opportunity to Licensing Board to formally respond to the consultation.

4.4. The consultation will run for a minimum period of eight weeks and include online and paper questionnaires, as well as face-to-face sessions across the borough, focusing on the proposed changes highlighted above. However, the consultation process will also be used to obtain views on other matters that should be considered for inclusion within the policy.

4.5. Following the consultation period, a final version of the policy will be written and presented to Cabinet for approval.

5. Timetable and Accountability for Implementing this Decision

5.1. Consultation on the draft policy commenced on 2nd January 2020

5.2. The consultation will run for a period of at least eight weeks from the date of commencement.

5.3. A final draft policy will be developed and presented to Cabinet for adoption in March 2020.

6. Financial and Procurement Advice and Implications

6.1. There are no specific financial or procurement implications directly associated with this report.

6.2. Activity related to the development and implementation of the revised policy will be undertaken and contained within existing budgets.

7. Legal Advice and Implications

- 7.1. The Council is responsible for the regulation of Hackney Carriage and Private Hire licensing in the borough. There is no legal requirement to have a policy in place; however, such a policy is necessary to ensure proper regulation of the trade and ensure that high standards are maintained. In order for such a policy to be fit for purpose, it needs to be regularly reviewed and amended to reflect change, so that regulation of the trade is consistent and remains effective. Regulation is essential to ensure effective safeguarding in the borough.
- 7.2. Failure of the Council to properly regulate Hackney Carriage and Private Hire licensing in the borough and the failure to maintain a policy that is fit for purpose leaves the Council and any decisions made in relation to licensing open to legal challenge. Any such challenge carries both financial and reputational risk for the Council.
- 7.3. The Council must be able to demonstrate effectiveness of the policy and provide confidence and reassurance regarding its implementation.
- 7.4. The Council must have regard to all relevant legislation and ensure that consultation process is followed correctly, in order to minimise the risk of any legal challenge.

8. Human Resources Advice and Implications

- 8.1. There are no direct HR implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1. Both the Jay report into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Corporate Governance Inspection led by Louise Casey CB identified issues, amongst which was the importance of having an effective taxi licensing service.
- 9.2. At the heart of the policy lies a commitment to the protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder. The effective implementation of the licensing policy and the standards that it contains plays an important part in the protection of children and vulnerable people in Rotherham.
- 9.3. Since the publication of the report, the licensing team have been working with colleagues in Children's Services to ensure that those involved in the care and support of looked after children are aware of the key contacts within licensing, the nature of information that can be passed on to the licensing team and the action that the team can take as a result. This has been achieved by identifying single points of contact within the Licensing Service and Children's Services and an agreed protocol for the sharing of information between services (making use of the formal, documented Local Authority Designated Officer procedures within Children's Services).

- 9.4. In addition, action has been taken to repair and formalise the information sharing processes within the Council and between its partners. This includes the regular attendance of a senior manager from the Council's regulatory service at the weekly CSE / CCE Intelligence Sharing Meetings that are chaired by South Yorkshire Police. Information that is discussed at the weekly meetings includes detail on offenders, victims and locations of concern. These meetings also provide a forum where a multiagency approach to a problem can be discussed; if need be with formation of a separate task and finish group consisting of the various Council services and partner agencies.
- 9.5. The Council's Hackney Carriage and Private Hire Licensing Policy makes it clear that non-conviction information can be taken into consideration when making decisions regarding licensing matters (there had previously been a criticism that officers acted only when a licence holder had actually been convicted of an offence). The policy confirms that the safety of the travelling public must be the paramount concern.

10. Equalities and Human Rights Advice and Implications

- 10.1. In undertaking its licensing function, the Council comply with relevant legislative requirements including the Human Rights Act 1998.
- 10.2. The policy (along with the Council's General Enforcement Policy) will ensure the consistent and fair determination of licences; recognising that every individual is entitled to dignity and respect.
- 10.3. When making licensing decisions the Council and its officers aim to ensure there is no discrimination on the grounds of culture, ethnic or national origins, gender, disability, age, sexual orientation, political or religious beliefs, socio-economic status, or previous criminal conviction or caution which is not relevant to the current issue.
- 10.4. Adherence to these requirements are assured by means of officer awareness, observation, case reviews and both customer satisfaction and complaints received into the service. In addition, those affected by licensing decisions have the legal right to challenge that decision in the Magistrates Court.
- 10.5. An Equalities Screening Assessment has been completed.

11. Implications for Partners

- 11.1. It is recognised that enforcement and compliance activity often cannot be carried out in isolation by the Council. Its key partnerships with other agencies e.g. South Yorkshire Police, HM Revenue and Customs and the Driver and Vehicle Standards Agency are critical to ensure a comprehensive approach to regulation.

12. Risks and Mitigation

- 12.1. The Hackney Carriage and Private Hire Licensing Policy must give confidence to licence holders and the public of the effective performance management of Council processes and the transparency and fairness of the Council's approach to enforcement.
- 12.2. Responsibility for ensuring compliance with the policy rests with team and service management, with appropriate overview and scrutiny by the Cabinet Member for Waste, Roads and Community Safety and members of the Licensing Board.
- 12.3. Failure of the Council to effectively discharge its licensing enforcement functions may compromise public safety.
- 12.4. Compliance with the General Enforcement Policy gives confidence to business and individuals of the transparency and fairness of the Council's approach to enforcement, without which the Council's reputation might be at risk.

13. Accountable Officer(s)

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