

**Committee Name and Date of Committee Meeting**

Licensing Board - 07 November 2023

**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?**

No, but it has been included on the Forward Plan

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

In March 2020, the Council introduced a revised Hackney Carriage and Private Hire Licensing Policy. This Policy built on the previous Policy (introduced in 2015) which was widely seen to be setting the standard for other local authorities to benchmark against in relation to Taxi and Private Hire Licensing.

The 2020 Policy is now due for review and provides an opportunity to ensure that the Council's approach to Taxi and Private Hire Licensing continues to reflect best practice, addresses local challenges and sets standards that will ensure that the standard of licensed driver, vehicle and operator in Rotherham remains high.

This report outlines the key proposed changes to the current policy, and seeks the views of Members of the Licensing Board in relation to them.

**Recommendations**

1. That Licensing Board review the proposed changes and provide the Licensing Manager with comments in relation to them.

**List of Appendices Included**

None.

**Background Papers**

Rotherham MBC Hackney Carriage and Private Hire Licensing Policy 2020 – 2023:

[hackney-carriage-and-private-hire-licensing-policy \(rotherham.gov.uk\)](https://rotherham.gov.uk/hackney-carriage-and-private-hire-licensing-policy)

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **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 was reviewed in 2020 and several additional requirements introduced. A large number of these were implemented at the time however, there have been delays in implementing both the additional stickers/signage, in relation to audio recording buttons, and the refresher training. Whilst the delays in implementation are as a result of various challenges, including the Covid pandemic, which led to large aspects of the Licensing training function being unable to operate fully, it is acknowledged that these activities should have been delivered sooner and as a result, actions have been put in place to prevent any recurrence. Both of these aspects are now in place operationally, with training dates established for the remainder of this year and stickers delivered to all operators and / or licence holders directly.
- 1.2 The existing and new draft Policy sets what is 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 national statutory guidance issued by the Department for Transport.
- 1.3 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.
- 1.4 The current Policy, and the statutory guidance, is clear that periodic review is essential towards ensuring success. The current three-year Policy was introduced in March 2020, so it is now necessary for the Policy to be subject to a formal review.

### **2. Key Issues**

- 2.1 To support the process of policy review, the Licensing team has undertaken an initial period of informal consultation with stakeholders and identified a number of key issues that could be resolved or mitigated through the revision of the current Policy and will be detailed further below.
- 2.2 Out of town vehicles and increase in sub-contracting
  - 2.2.1 It has become apparent that since the pandemic, the way that drivers are working has changed. It would appear that drivers are moving away from local firms and instead choosing to work for firms that have licences to operate in a number of different districts (Uber are perhaps the most commonly known of firms that operate in this way).

- 2.2.2 Working in this way allows drivers to take full advantage of the demands for taxi services in different areas at different times/days of the week. For example, there may be a demand in Rotherham during daytime hours, but a higher demand for taxi services in Sheffield during the evening/night-time economy.
- 2.2.3 As a result, local firms are reporting a decrease in the number of drivers that are available to them and are therefore looking at other options to enable them to fulfil bookings. One option that appears to be gaining in popularity is the use of drivers and vehicles licensed by other Councils (which is permitted via the process of sub-contracting bookings to other operators).
- 2.2.4 The proliferation of out-of-town vehicles is concerning, not least because this activity undermines the standards that are set by the Council's Hackney Carriage and Private Hire Licensing Policy. In addition, members of the local trade are not working within a "level playing field" and are finding that drivers licensed elsewhere are benefiting from an unfair commercial advantage due to lower operational costs.
- 2.2.5 The Council recognises that Private Hire Operators have a critical role to play in relation to use of out-of-town vehicles and more widely in the delivery of safe and efficient private hire services. It is essential that Private Hire Operator licence holders are competent in the operation of their business and have appropriate safeguards in place to ensure that their business activities do not expose the public to unacceptable risks to their safety.
- 2.2.6 With the above in mind, it is being proposed that the current requirements that are incumbent on Private Hire Operators are enhanced so that, like the drivers that work for them, Private Hire Operators meet the high expectations that the Council and the residents of Rotherham have of them.
- 2.2.7 The following additional conditions are proposed to be included within the revised policy and therefore attached to Private Hire Operator Licences:
- The Private Hire Operator must inform the customer at the time of acceptance of the booking that the booking they have made will be sub-contracted to another Private Hire Operator. If this is not known at the time of booking then the customer must be informed as soon as practicable (and in any event, the customer must be informed before the vehicle is dispatched to undertake the booking).
  - Private Hire Operators must maintain records of each sub-contracted booking. These records must include (as a minimum):
    - The time and date that the booking was sub-contracted to the third party operator.
    - The time and date that the customer was informed that their booking had been sub-contracted.
    - The name and Private Hire Operator number of the operator that the booking was sub-contracted to.
    - The details of the vehicle and driver that undertook the sub-contracted booking.

2.2.8 Inspections / compliance visits of Private Hire Operators will include a detailed assessment of any arrangements that are in place for the sub-contracting of bookings to other operators. A zero-tolerance approach will be taken in relation to a failure to comply with the requirements of a Private Hire Operator licence - robust action being taken in the event of operator non-compliance with licence requirements.

2.2.9 The above requirements will apply to existing licence holders in addition to those that apply for a new licence. The requirements in relation to existing licence holders will be introduced by way of an implementation scheme that will be produced and published following consultation with stakeholders. The service has also considered options to introduce a requirement for Operators which would prevent the use of out-of-town vehicles, save for exceptional cases, however it has been acknowledged that this requires further detailed discussion to ensure any such amendment was legal and practicably applicable. The Council must also continue to work with partners and other Local Authorities to seek national change that either ensures consistently high standards or allows for local restrictions on out-of-town vehicles where they fall below the expectation set locally.

### 2.3 Vehicle Age and Emissions

Anecdotal evidence through ongoing engagement with the Taxi trade suggests that the current cost of living crisis is making it difficult for existing drivers to replace older vehicles that no longer meet the Council's Vehicle Age Policy.

2.3.1 Obtaining a licence in another Council area is attractive in these situations as the cost of an older vehicle is much lower than a newer one that would be required in Rotherham, and the installation of taxi cameras is also not required in many other Local Authority areas. It has been suggested that a local driver can save between £2000 - £3000 on the cost of a vehicle by opting for a licence elsewhere (and in some cases may not need to replace the vehicle as the alternate licensing authority does not have an age limit policy as stringent as that in Rotherham).

2.3.2 In relation to vehicle age and emissions, the Council's current Policy stipulates the following (Full details are contained within Appendix I of the current Hackney Carriage and Private Hire Licensing Policy):

- A vehicle which is not licensed at the point of application must be aged under 5 years old at the time that the application is made.
- If an application is made to renew a vehicle licence (i.e. an application is made whilst there is a licence in place) then the vehicle must be aged under 10 years old on the date that the renewed licence would take effect.

2.3.3 These requirements were introduced in 2015 with the objective of improving the standard of licensed vehicles and reducing the negative impacts on air quality resulting from the use of older vehicles.

2.3.4 Although the Policy requirements were largely successful in achieving the above objectives, the requirements may now be considered to be overly restrictive and to some extent linked to the increase in the number of out-of-town vehicles operating in Rotherham. At the same time any revised policy still needs to support the Council's ambition towards a net zero borough.

2.3.5 As a result of the above, it is being proposed that the Council's Vehicle Age and Emissions Policy is amended as follows:

- A vehicle which is not licensed at the point of application must have been registered (or in the case of imported vehicles, manufactured) on or after the 1<sup>st</sup> September 2015.
- If an application is made to renew a vehicle licence (i.e. an application is made whilst there is a licence in place) then the vehicle must be aged under 10 years old on the date that the renewed licence would take effect, except in the following circumstances:
  - Vehicles that meet the Council's Enhanced Quality Standards (detailed below) must be aged under 12 years old on the date that the renewed licence would take effect.
  - Vehicles that meet the Council's Enhanced Quality Standards and are capable of carrying a passenger seated in a wheelchair must be aged under 15 years old on the date that the renewed licence would take effect.
  - Ultra-Low Emission Vehicles (as defined at the time that the vehicle was first licensed) that also meet the Council's enhanced quality standards must be aged under 15 years old on the date that the renewed licence would take effect.

2.3.6 The Enhanced Quality Standards referred to above are:

- The vehicle must pass the Council's compliance test and be must free from minor issues at the time that the test is passed. A minor issue is one that on its own would not result in a test failure at that time, but in the opinion of the tester will require remedy before the next test in order to avoid becoming a failure item (advisory notes provided at the time of an MOT inspection are an example of a minor issue).
- The vehicle's emissions must comply with, or exceed, the Euro 6 emissions standard.
- The vehicles bodywork must be in a condition that does not adversely affect the overall appearance of the vehicle.

The interior trim, panels, seating, carpets and upholstery are clean and free from any condition that would adversely affect the appearance of the vehicle interior.

2.3.7 In conjunction with the above, the frequency that vehicles are required to undergo a compliance test at the Council's testing station will be amended. The current requirements are:

- Vehicle aged under 3 years old – one test per year
- Vehicle aged between 3 and 5 years old – two tests per year
- Vehicle aged over 5 years old – three tests per year

2.3.8 In order to incentivise the purchase of newer vehicles, whilst ensuring that older vehicles remain suitable for use as licensed vehicles, it is being proposed that the test frequencies are amended as follows:

- Vehicles aged under 5 years old – one test per year
- Vehicles aged between 5 and 7 years old – two tests per year
- Vehicles aged over 7 years old – three tests per year

## 2.4 Convictions Policy lacks clarity in relation to certain offences

2.4.1 The current Convictions Policy provides guidance to decision makers, drivers and applicants in relation to the way that a conviction would affect a person's suitability to hold a licence.

2.4.2 Although the Policy covers most common conviction types, there are a number that do not fit into the categories that are detailed in the Policy (for example some motoring offences, immigration related offences, offences related to business practices (sale of illicit tobacco) etc.).

2.4.3 The Policy review therefore includes a revision of the Convictions Policy to provide clearer guidance in relation to these offences, and to ensure that the standards that are set continue to be in accordance with good practice and at a level that will ensure that users of taxi and private hire services are protected.

2.4.4 The specific changes are as follows:

- Greater clarity will be provided through the introduction of additional categories of convictions. New categories will include immigration offences, certain motoring offences, offences connected to the operation of businesses, cultivation of illegal drugs, offences involving discrimination, offences related to public safety and breaches of environmental protection legislation.
- The minimum time periods that must elapse before a person is considered to be suitable for licensing will be reviewed and compared with other standards throughout the country (including the national statutory guidance), with periods increasing where required. The time periods detailed in the current policy will not decrease and will match or exceed those of all other neighbouring authorities.

2.4.5 In addition to the above, it is proposed that the revised policy includes a requirement for all vehicle proprietors to undergo a basic level DBS check as part of the application process (unless the applicant is an existing Rotherham MBC licensed driver).

2.5 Low number of vehicles that are capable of carrying a passenger that is seated in a wheelchair.

2.5.1 The number of vehicles that can carry a person seated in a wheelchair has decreased over the years – primarily due to the cost of these vehicles.

2.5.2 The fact that most wheelchair accessible vehicles (WAVs) are hackney carriages exacerbates this issue due to the current limit on the numbers of hackney carriages that are licensed in Rotherham (currently limited to 52). This situation makes it difficult for wheelchair users to access taxi services in the way that others are. The Policy review looks to address this, and a list of accessible vehicles is currently being prepared for publication, in line with statutory requirements.

2.5.3 The number of Hackney Carriage licences that can be in effect at any one time is currently limited to 52. This limit was introduced by the Council's Licensing Board in July 2005 following a survey of unmet demand for taxi services in Rotherham.

2.5.4 Government guidance clearly states that Councils should not impose a limit and should instead allow market / commercial forces to dictate the number of Hackney Carriages that are able to operate within its area. It is therefore proposed that the current limit of 52 Hackney Carriages in Rotherham is removed, but with a requirement for any new Hackney Carriages to be capable of carrying a passenger seated in a wheelchair.

2.5.5 The effect of this is expected to be a greater number of available Hackney Carriages (that would have the option of working for local firms during periods of high demand) and an increase in the number of vehicles that are able to accommodate a passenger seated in a wheelchair.

2.6 Clarification regarding application requirements

2.6.1 The current Policy does not outline the application and decision-making process for individuals that have had licences revoked due to being the subject of criminal investigations but have been released from enquiries.

2.6.2 This leads to uncertainty on the part of applicants and officers in relation to the processes that should be followed should a former suspect in a criminal investigation be released from enquiries and subsequently apply for relicensing.

2.6.3 Current practice regarding the referral of applications to the Council's Licensing Board is considered to be inefficient. For example, an application from an individual convicted of a relatively minor offence some years ago would be referred to the Licensing Board even though the Council's



Convictions Policy would indicate that the individual would be considered suitable for licensing. This introduces unnecessary delay, as the hearing are only held at certain frequencies, and uses valuable time of the Committee that may be better spent dealing with other, more high risk, matters. However, our normal practice will be for serious matters to be referred to the Licensing Board for consideration, regardless of the time period that has elapsed.

2.6.4 It is proposed that the revised policy will include the following:

- An outline of the processes that will apply to the handling of applications for driver, vehicle and operator licences. This will provide clarity in relation to:
  - the documentation that must be provided when making an application,
  - the order that the various elements must be completed,
  - any timescales that apply to the completion of the application,
  - any specific requirements that apply to each of the individual application elements (for example, the details of acceptable providers for the practical driving test).

2.6.5 In addition, details in relation to the application process for former licence holders previously subject to investigation will be included to make it clear that there will be no exemptions from the completion of all of the application requirements. The Council will utilise information sharing pathways to obtain information regarding the criminal investigation and will use this information as part of the assessment of the applicant's suitability to hold a licence.

2.6.6 It is also proposed that the revised policy should provide greater clarity in relation to the Council's decision-making processes and scheme of delegation.

2.6.7 It will be made clear that most licensing decisions will be made by licensing officers with referrals to the Council's Licensing Board generally being limited to:

- those cases where there is a clear breach of the Council's Policy, and
- licensing officers are of the opinion that it may be appropriate for an application to be refused, or for an existing licence to be revoked (with the exception of cases where it is in the interests of public safety for a revocation to take effect immediately).

2.7 Lack of clarity in relation to vehicle testing standards and display of signage

2.7.1 Observations have shown that the way in which taxi signage is displayed on vehicles lacks consistency.

2.7.2 Door signage should be displayed on the front doors, but has been seen on the rear doors, wings and rear body panels.

- 2.7.3 In addition, licence plates are mounted in the rear window, attached with magnets and / or suitable homemade brackets / fixings.
- 2.7.4 Although the requirements are detailed in the current Policy, they would appear to be misunderstood by some drivers and therefore further specific clarity needs to be provided.
- 2.7.5 It is proposed therefore that the revised policy includes clear guidance on the placement of vehicle signage (including door signs). It will also introduce a requirement that all required signage must be permanently fixed to the vehicle by default. However, the Council will allow deviations from this requirement in cases where if the method of fixing allows the signage to be placed in accordance with the policy requirements and there is no history of formal action being taken against the licence holder as a result of non-compliance with signage requirements (during the period of the licence).
- 2.7.6 In addition to the above, a new requirement will be introduced for the display of a vehicle licence plate on the front bumper / grille.
- 2.8 General amendments to wording and format of policy to improve readability
- 2.8.1 The general wording of the policy and associated appendices will be reviewed and if appropriate amended in order to improve clarity and readability.

### **3. Options considered and recommended proposal**

- 3.1 The current policy covers the period 2020 - 2023, meaning that the policy is now due to enter a formal review process. A number of options were considered during the review process:
- 3.2 **Option 1:** The Council could have decided not make any changes and consult on the current policy. This would have given a policy to consult upon but would not have reflected Council's intention to introduce additional / revised measures and would not therefore have given respondents the opportunity to comment on those proposals.
- 3.3 **Option 2:** The Council could have published a paper which outlined the issues refer to earlier in this report and asked for comments on the appropriate way to implement this into the revised policy. Whilst this would have allowed for an open consultation where consultees were able to give further detail to inform the revised policy, it would not have given adequate information about the additional / revised measures that the Council was considering.
- 3.4 **Option 3:** The Council could have decided to commence a period of consultation highlighting any proposed changes and asking consultees to comment on those. The Council could also invite comments from consultees on the policy in general. This approach would have allowed consultees to understand the position of the Council, and would have allowed respondents to make informed comments on the proposals and the policy in general.

3.5 The preferred option was Option 3, and this was the option that was agreed by Cabinet in June 2023. It was considered that this option would give consultees the opportunity to comment on the key changes that are being proposed, as well as giving the option to comment on the policy in general.

#### **4. Consultation on proposal**

4.1 Cabinet accepted the proposed amendments, and outline of the review process, at the meeting in June 2023, there then followed a formal consultation process.

4.2 Consultation has taken place with members of the public, and those affected by the policy. This consultation has taken the form of:

- Direct contact with representatives of businesses / organisations that are directly affected by the policy.
- Online consultation via the Council's website.
- Direct mail contact with local residents (a mailshot to over 1000 randomised residential addresses within the Rotherham Borough).
- Public drop in sessions throughout the Borough.
- Consultation at Rotherham Show.
- Contact with groups / organisations representing specific sectors of our communities.
- Consultation with local ward Members.
- Publicity via local newsletters and mailings
- Press releases / social media publicity raising awareness of the policy review.

4.3 The online consultation period concluded on 21<sup>st</sup> October 2023 and there have been in excess of 600 responses to the consultation.

4.4 At the time of drafting this report, the responses were still being reviewed/ analysed by the Licensing team – however a verbal update will be provided during the meeting that will outline key themes / findings identified during the consultation.

4.5 Members of the Licensing Board are invited to provide the Licensing Manager with comments in relation to the policy proposals during the meeting today. These comments will be considered along with other consultation responses during the development of the final draft policy document.

#### **5. Timetable and Accountability for Implementing this Decision**

5.1 The final draft policy document will be presented to Cabinet at its meeting in December 2023.

5.2 If approved, the policy will come into effect as soon as possible after the Cabinet meeting.

5.3 It will however be necessary for some of the revised policy requirements to come into effect over a period of time. Further detail on this will be detailed in an implementation scheme which will be submitted to Cabinet in December alongside the final draft of the policy.

## **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 Option 3 (which was the option approved by Cabinet) ensured that the Council consulted in a transparent manner and as extensively as possible in order for policy development to take place where required. This minimised the risk of any legal challenge in respect of the policy itself and any decisions made surrounding the process. A decision not to formally review the policy or to narrow down the consultation could have left the Council open to potential challenge by way of judicial review.

7.5 The 12 week period of consultation was considered to be sufficient and in line with Government guidance.

## **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 Licensing service at the weekly Child Exploitation Tasking Group 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 needs 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 as part of the review process, a full Equality Analysis will be completed for submission to Cabinet if required.

## **11. Implications for CO2 Emissions and Climate Change**

- 11.1 There are no direct CO2 emissions or climate change implications introduced by this report as the Policy presented is in draft. A further report with the final version of the Policy will be subject to further detailed analysis.

## **12. Implications for Partners**

- 12.1. 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.

## **13. Risks and Mitigation**

- 13.1 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.
- 13.2 Responsibility for ensuring compliance with the policy rests with licensing 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.
- 13.3 Failure of the Council to effectively discharge its licensing enforcement functions may compromise public safety.

13.4 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.

**14. Accountable Officers**

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This report is published on the Council's [website](#).