

Committee Name and Date of Committee Meeting

Cabinet – 18 December 2023

Report Title

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 June 2023, Cabinet gave approval to commence a period of consultation in relation to a number of proposed amendments to the Council's Hackney Carriage and Private Hire Licensing Policy.

The consultation period has now concluded, and all responses have been collated and analysed. This report outlines the findings of the consultation exercise and proposes a final policy document for adoption by Cabinet.

The report also outlines a proposal to carry out a further review of vehicle signage and driver identification with the intention of introducing revised requirements based on the feedback received during the consultation process.

Recommendations

That Cabinet:-

1. Adopt the draft Hackney Carriage and Private Hire Licensing Policy 2023 attached as Appendix 1.
2. Agree to the implementation of the policy requirements according to the implementation scheme detailed at Appendix 3.

3. Agree to a further review in relation to vehicle signage and driver identification, as described in section 2.5 of this report.

List of Appendices Included

- Appendix 1 Draft Rotherham MBC Hackney Carriage and Private Hire Licensing Policy 2023
- Appendix 2 Consultation responses
- Appendix 3 Implementation scheme
- Appendix 4 Equality Analysis
- Appendix 5 Climate Impact Assessment

Background Papers

Rotherham MBC Hackney Carriage and Private Hire Licensing Policy 2020
Department for Transport Taxi and Private Hire Statutory Guidance

Consideration by any other Council Committee, Scrutiny or Advisory Panel
None

Council Approval Required
No

Exempt from the Press and Public
No

Hackney Carriage and Private Hire Licensing Policy

1. Background

- 1.1 In July 2015, the Council published a revised 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. Many of the standards have subsequently been adopted by other local licensing authorities and been included in revised national guidance.
- 1.2 The current Policy is clear that periodic review is essential to ensuring its continued success. Since implementation in 2015, the Council's Hackney Carriage and Private Hire Licensing Policy has been reviewed twice, most recently in 2019.
- 1.3 Despite being confident in the standards of the Policy, a further review is now necessary to ensure that the Council's Policy remains robust and ensures standards of safety for passengers and the general public. Changes in national guidance, feedback from the public, and from the licensed trade, has given options to further improve the Policy and ensure the calibre of licence holder in Rotherham remains at the very highest level.
- 1.4 A report was submitted to Cabinet in June 2023, which recommended consulting on the draft Policy. Cabinet authorised officers to commence consultation as outlined in that report.
- 1.5 This report outlines the findings of the consultation process and proposes a draft Policy for adoption by Cabinet.
- 1.6 In addition, the report also outlines a proposal to commence a separate review in relation to vehicle signage and driver identification. This proposal is made based on the feedback received during the consultation process, further detail is provided in section 2.5 below.

2. Key Issues

- 2.1 The Council developed a number of proposals that were included in a draft revised policy, alongside asking for ideas and suggestions from a wide range of groups through various consultation activities. Following a significant consultation (see Appendix 2), which generated 624 responses, the following changes have been included in the final policy:
- 2.2 Enhanced requirements for Private Hire Operators
 - 2.2.1 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.

2.2.2 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 expectations that the Council and the residents of Rotherham have of them.

2.2.3 The proposals in relation to Private Hire Operators are as follows:

2.2.4 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.

2.2.5 Overall, there was general support shown during the consultation for the introduction of both of these measures. 53% of respondents were in agreement with the proposal to require operators to inform the customer if the booking was to be sub-contracted (with 42% against), whilst 51% of respondents felt that the proposed additional operator conditions were appropriate (with 44% against).

2.2.6 However, there were clear differences in views between members of the licensed trade and members of the public.

2.2.7 The majority of respondents (61%) that stated that they held a hackney carriage or private hire related licence (referred to in this report as “the local trade”) did not agree with the proposed requirement to notify customers, and 65% of the local trade did not agree with the proposed additional conditions on operator licences.

2.2.8 That contrasted with the views of Rotherham residents that had used a Rotherham licensed vehicle within the last 6 months (referred to in this

report as “local taxi users”). 84% of local taxi users were in agreement with the proposal to introduce a requirement for them to be notified if their booking was to be sub-contracted, and 85% agreed that the proposed operator conditions were appropriate.

- 2.2.9 The remaining measure that applies to Private Hire Operators is the proposal to introduce an assessment of Private Hire Operator licence applicants as part of the application process.
- 2.2.10 The proposal is that all applicants for the grant or renewal of a Private Hire Operator licence must undergo an interview with Licensing Officers as part of the application process. The interview will include an assessment of the applicant’s licensing knowledge, compliance history and an evaluation of their business practices / method of operation. Applicants that do not satisfy Council Officers that they are competent and will operate their business in an acceptable manner will have their application for a licence refused.
- 2.2.11 Again, there was general support for the introduction of this requirement, with 56% of all respondents stating support for the proposal. There was again however a marked difference between the views of the local trade and local taxi users. 55% of respondents from the local trade were not supportive of this requirement, whereas 86% of local taxi users agreed with the introduction of the assessment. In addition, members of the Council’s Licensing Board, and associations representing the local taxi trade were supportive of this measure – although the associations raised concerns regarding the practical implementation of the requirements.
- 2.2.12 The Council considers that the introduction of these requirements is a critical step in addressing the concerns regarding the increase in out-of-town vehicles operating in Rotherham. In addition, the requirements will ensure that the standards expected of local Private Hire Operators are appropriately high, in line with licensed drivers and vehicles.
- 2.2.13 With this in mind, and with the support of the overall majority of respondents, the enhanced requirements in relation to operators have been included in the revised policy.
- 2.2.14 However, during the consultation it became apparent that compliance with the revised requirements may present operators with practical and technological challenges. It is therefore proposed that the above requirements will be introduced in accordance with the implementation scheme that is attached to this report as Appendix 3.

2.3 Removal of the limit on Hackney Carriage licences

- 2.3.1 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.

- 2.3.2 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 able to do. The Policy review looks to address this, and a list of accessible vehicles is currently being prepared for publication, in line with statutory requirements.
- 2.3.3 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.
- 2.3.4 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.
- 2.3.5 The effect of this is expected to be two-fold:
1. 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. Compliance with Government guidance and the avoidance of a requirement for a costly survey to be carried out (funded by the Council and / or the local trade).
- 2.3.6 The consultation showed that the majority of respondents were in support of the above proposal, with 59% of respondents stating they were in agreement. Responses from the local trade indicated that 49% of respondents supported the proposal, and 41% did not. Responses from local taxi users showed 78% were supportive of the proposal – primarily due to the expected impact on the number of wheelchair accessible vehicles.
- 2.3.7 Whilst the public and Licensing Board were both in support of the proposal, it is fair to say that the responses from the trade associations were mixed. The associations generally recognised that there was a need to increase the number of WAVs in Rotherham but raised concerns regarding the availability of rank spaces and demand for hackney carriage work.
- 2.3.8 Although the Council acknowledges these concerns, it is nonetheless proposed that the Hackney Carriage limit is removed. Despite trade concerns, it is envisaged that any increase in the numbers of licensed Hackney Carriages will be determined by market forces and that such an

increase is likely to be moderate. This moderate increase will in turn have benefits with regard to the availability of WAVs in Rotherham.

2.3.9 Following concerns raised by members of the local trade, it will be made clear in the policy that the requirement for Hackney Carriages to be capable of carrying a passenger seated in a wheelchair will only apply to the “new” licences (i.e. the requirements will not apply to existing Hackney Carriage licence holders).

2.4 Amendment to the vehicle age and emissions policy

2.4.1 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.

2.4.2 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).

2.4.3 The current requirements in relation to vehicle age and emissions 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.

2.4.4 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.

2.4.5 As a result of the above, it was proposed that the Council's Vehicle Age and Emissions Policy be 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 September 2015.
- Licences will not be renewed in respect of any licensed vehicle that was first registered (or, in the case of imported vehicles, manufactured) more than 10 years prior to the date that the renewed licence will take effect. This is however subject to the exemptions below:
 - i. 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.

- ii. 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. Vehicles that are capable of carrying a passenger whilst seated in a wheelchair are referred to as WAVs throughout this report.
- iii. Ultra-Low Emission Vehicles (referred to throughout this report as ULEVs) 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.

2.4.6 The Enhanced Quality Standards are:

- The vehicle must pass the Council's compliance test and must be 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 vehicle's 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.

2.4.7 Compliance with emissions requirements will be assessed with reference to the information detailed on the vehicle's V5 (logbook) and through emissions testing carried out at the Council's testing depot (including as part of the required compliance test).

2.4.8 The assessment of a vehicle against the Enhanced Quality Standards will primarily be carried out by the Council's authorised vehicle testers at the Council's testing depot but may occasionally be carried out by other persons authorised to make the assessment on behalf of the Council (for example, Licensing Officers).

- 2.4.9 The exemptions detailed in paragraphs i), ii) and iii) above will only apply whilst the vehicle meets or exceeds the enhanced quality standards. If a vehicle aged over 10 years is found (at any time) not to meet the Enhanced Quality Standards, then the licence on that vehicle will be immediately suspended until such time as the standards are met.
- 2.4.10 In conjunction with the above, it is proposed that the frequency that vehicles are required to undergo a compliance test at the Council's testing station will be amended.
- 2.4.11 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
- 2.4.12 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
- 2.4.13 More survey respondents agreed that the above proposals (43%) should be introduced than disagreed (41%), although the results were not conclusive. Interestingly however, the majority of respondents from the local trade (59%) disagreed with the proposed changes to the age and testing requirements. Further review of the comments made during the consultation (both via the online survey and those made directly by members of the local trade or their representatives) suggested that the key reason for this apparent disagreement was that the proposals did not go far enough.
- 2.4.14 The majority of local taxi users agreed with the proposal or had no strong opinion either way.
- 2.4.15 A review of comments made by the local trade show a significant proportion that consider that an upper age limit of 15 years would be appropriate and that there should be a maximum of two tests per year for those vehicles aged over 7 years (vehicles under 7 years old would only require one test per year). Reasons that have been cited in support of this position include:
- The cost of new vehicles has increased in recent years, and the age limits should be extended to support the local trade.
 - Most 15 year old vehicles will be Euro 6 compliant.
 - Vehicles will have been well looked after and are made to a better specification.

- 2.4.16 The Council accepts that the purchase of a vehicle is the single biggest expense for members of the local trade and taking into account the feedback from the local trade and the views of local taxi users, it is the Council's opinion that an upper age limit of 15 years would be acceptable provided that it is introduced in conjunction with a robust vehicle testing framework.
- 2.4.17 The original proposal included an allowance for ULEVs and WAVs to be licensed for an additional 3 years beyond the initial 12-year upper age limit, this was intended to incentivise the uptake of such vehicles. The Council has given thought as to whether there should also be an increase in the upper age limit of ULEVs and WAVs now that the age limit for general vehicles is proposed to be 15 years.
- 2.4.18 The Council is mindful of the need to incentivise the purchase of WAVs (due to their low numbers currently and taking into account recent guidance from the UK Government) and is therefore proposing to further increase the upper age limit for WAVs to 18 years. Again, this will be dependent on the vehicle meeting the enhanced quality standards.
- 2.4.19 The Council is not proposing to apply the same age limit extension to ULEVs, but will instead explore other options that may incentivise the purchase of these vehicles (such as grant funding and lease opportunities etc.). It is felt that these proposals would be significantly more attractive to licence holders than the opportunity of licensing the vehicle until it is 18 years old (for example, it is unlikely that the technology within a battery electric vehicle will have a lifespan of up to 18 years – meaning that in reality the 18 year age limit would not offer much of an incentive as most battery electric vehicles will be replaced before they reach this age).
- 2.4.20 As is mentioned above, the proposed amendment to the vehicle upper limits would only be introduced in conjunction with a robust inspection framework. This is because vehicles aged over 10 years old are likely to be showing signs of age and wear and tear that will affect the overall appearance of the vehicle. A compliance test is primarily an assessment of the mechanical and structural condition of the vehicle. The test does not generally take into consideration qualitative aspects such as the overall appearance of the vehicle and relying purely on the compliance test as the sole criteria for evaluating the condition of vehicles over 10 years old is considered to be insufficient.
- 2.4.21 The Council is concerned that removing the additional criteria that form part of the assessment for vehicles over 10 years of age will have a detrimental impact on the overall standard of licensed vehicle in Rotherham and negatively impact the Council's commitment to improving air quality.
- 2.4.22 It is therefore considered appropriate that additional criteria should therefore be applied when assessing the suitability of vehicles aged over 10 years old – this is the reason why the "enhanced quality standards" have been developed. If these standards are met, then a vehicle can be

licensed until it is at least 15 years old (or 18 years old in the case of vehicles that are capable of carrying a passenger in a wheelchair).

- 2.4.23 It is possible that some vehicles over 15 years old may be in very good condition, and the Policy recognises this by allowing vehicles of any age to be licensed provided they meet a different set of additional criteria (referred to in the policy as the “exceptional condition criteria”).
- 2.4.24 The proposed requirements regarding vehicle testing are considered to be appropriate, primarily because the tests are the only assessment of mechanical and structural integrity that the vehicle is subjected to. A typical licensed vehicle may be expected to travel in the region of 3 or 4 times the number of miles that a private vehicle will travel. It is therefore appropriate that the testing regime should be more stringent.
- 2.4.25 For these reasons, it is proposed that the amendments to the vehicle age requirements are introduced as outlined above, i.e. 15 years for general vehicles and 18 years for vehicles that are capable of carrying a passenger seated in a wheelchair – subject to these vehicles meeting the enhanced quality standards after the age of 10.
- 2.4.26 It is further proposed that the requirements regarding vehicle testing that are outlined above are introduced without amendment.
- 2.4.27 If agreed, the requirements regarding age limits and vehicle testing will be re-evaluated at the time of the next review of the Hackney Carriage and Private Hire Licensing Policy.

2.5 Vehicle Signage

- 2.5.1 Observations have shown that the way in which taxi signage is displayed on vehicles lacks consistency.
- 2.5.2 Door signage should be displayed on the front doors, but has been seen on the rear doors, wings and rear body panels.
- 2.5.3 In addition, licence plates are mounted in the rear window, attached with magnets and / or suitable homemade brackets / fixings.
- 2.5.4 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.
- 2.5.5 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).

- 2.5.6 In addition to the above, it is proposed that a new requirement will be introduced for the display of a vehicle licence plate on the front bumper / grille.
- 2.5.7 The majority of respondents disagreed with the introduction of the above proposals. Again though, there was a significant difference between responses from members of the local trade and local taxi users.
- 2.5.8 82% of the local trade disagreed with the proposals regarding permanent signage whereas 82% of local taxi users felt permanent signage was appropriate. In addition, 88% of the local trade disagreed with the requirement for a front plate, compared with 78% of local taxi users that agreed to the introduction of the requirement.
- 2.5.9 However, during the consultation, the Council received feedback regarding the proposals around signage that offered a different perspective and revealed a number of challenges that had not previously been considered, including:
- The current signage displayed on vehicles is a mixture of formats and designs – there is no uniformity to the vehicle signage and this can detract from the appearance of the vehicle and be confusing for customers.
 - The current signage is not designed in accordance with the Council’s Corporate branding and has not been updated or reviewed for many years.
 - As drivers often work for numerous operators, there is a need to exchange door signs (that identify the operator) on a frequent basis during the working day. Drivers have told us that poor weather conditions can hinder the sign’s ability to attach to the door, and so some drivers have opted to have more than one door sign on their door. It has been suggested that a generic door sign is used that does not need to be changed on a regular basis. A counter to this was that some operators like to have their name on the vehicle as it acts as an advertisement for their firm.
 - If operators see that certain drivers are working for more than one operator, then they may decide not to offer that driver work and instead send jobs to those drivers that work exclusively for one operator.
 - The use of apps and online bookings makes signage unnecessary as passengers get a message / notification giving them details of the vehicle and driver so they can easily identify the vehicle they have booked.
 - Some vehicles, particularly more modern and electric vehicles, do not have front grilles – this means that there may be some difficulty in attaching the front plate in the way outlined in the proposals.

- Some vehicle door panels (particularly the front doors) are manufactured from aluminium or some other non-ferrous composite material. This means that magnetic door signs cannot be attached to the front doors and so drivers are opting to place the magnetic door sign on the rear door / wing.

2.5.10 Taking into consideration the feedback that was provided during the consultation, the Council feels that it would be worthwhile to conduct a full review of vehicle signage. This will ensure that signage is of a consistent design, modern and appropriate for the intended aim.

2.5.11 With this in mind, the Council is not proposing to introduce the amended requirements in relation to vehicle signage and will instead undertake a full review of signage by June 2024 taking into account the views of the local trade and local taxi users to develop a proposal that will then be presented to Cabinet for approval in August 2024.

2.5.12 In the meantime, the Council will introduce specific guidance in relation to the placement of vehicle signage so that all licence holders are aware of their obligation. It is also acknowledged that specific requirements regarding audio signage and driver identification have not been fully implemented and/or lack consistency. These issues will be reviewed, and the Policy consistently applied in this regard by the 1 April 2024. In addition, enforcement activity will continue to take place and action taken to address any non-compliance with the current requirements around vehicle signage and driver identification.

2.6 Review of the conviction policy

2.6.1 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.

2.6.2 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.).

2.6.3 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.

2.6.4 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.

- 2.6.5 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.
- 2.6.6 53% of all respondents to the survey agreed with the proposal to review the conviction policy, but again there was a difference in views between the local trade and local taxi users.
- 2.6.7 31% of the local trade agreed with the proposal to review the convictions policy, whereas the figure was 86% for local taxi users.
- 2.6.8 During the roadshows and consultations sessions, it became apparent that the reason for the lack of support for this proposal within the trade was a perception that the new requirements would lead to a large-scale review of all licence holders and that some would lose their licences as a result (similar to the approach that was taken in 2015). Members of the local trade were more accepting of the proposals when they had been provided with the opportunity to discuss the proposals in more detail.
- 2.6.9 All of the trade representative groups were supportive of the proposal (with the exception of GMB who stated that the standards were already the highest in the region and therefore did not need amending). In addition, the Licensing Board confirmed that they approved of the review and made suggestions regarding additional clarity that could be provided based on their experiences at case hearing meetings.
- 2.6.10 The review of the convictions Policy will therefore take place, and the findings incorporated into the Policy and associated documentation.

2.7 Requirement for a DBS check as part of a vehicle licence application

- 2.7.1 The Council is proposing that a requirement is introduced for all applicants for a vehicle licence to undergo a basic level DBS check as part of the application process. This requirement will not apply to applicants that are an existing Rotherham MBC licensed driver, as these individuals will already have provided an Enhanced Disclosure Certificate as part of their driver licence application.
- 2.7.2 There was general support for the introduction of this requirement, with a narrow majority of the local trade agreeing with the proposals or having no strong opinion either way (53%), and the overwhelming majority of local taxi users agreeing to the proposals (88%).

- 2.7.3 In addition to the above, the requirement for criminality checks on vehicle licence holders is contained within the Department for Transport Statutory Taxi and Private Hire Vehicle Standards (published July 2020).
- 2.7.4 Having taken the above into consideration, it is recommended that the requirement for DBS checks on applicants for a vehicle licence is included in the revised Policy.
- 2.8 Clarification regarding application requirements
- 2.8.1 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.
- 2.8.2 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.
- 2.8.3 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 hearings 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, the Council's normal practice will be for serious matters to be referred to the Licensing Board for consideration, regardless of the time period that has elapsed.
- 2.8.4 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).
- 2.8.5 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.

- 2.8.6 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.
- 2.8.7 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 / or
 - 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).
- 2.8.8 Again, the majority of respondents agreed with the proposal to introduce the above requirements. However, some members of the local trade expressed concerns regarding the proposals – primarily around the following:
- 2.8.9
1. The local trade were concerned that individual officers would be responsible for all decision making and the drivers would not be provided with the opportunity to make representation to a panel in cases where their suitability for a licence was being reviewed.
 2. Concerns were expressed that the Council would be “reopening” police investigations rather than accepting the police's findings.
- 2.8.10 The following reassurance was provided in relation to these matters:
- 2.8.11
1. Licence holders will still be provided with the opportunity to have their case considered by a sub-committee of the Licensing Board if there are concerns regarding their suitability to hold a licence. The ability of licensing officers to revoke or suspend licences will remain unchanged (i.e. reserved for cases where there is a need to act immediately in the interests of public safety). The proposals will only affect applications for the grant of a licence where the applicant has a conviction that is very old, or very minor and where there are no breaches of the Council's policy.
 2. It was clarified that there would not be a further investigation, just that information would be reviewed in relation to the decision to release an individual from police etc. enquiries. For example, if the decision not to charge was due to a case of mistaken identity or a clearly malicious complaint, then the likelihood of the applicant receiving their licence will not be affected by their previous arrest. It would be a different matter however if the decision not to charge

was due to a technical issue, or reluctance of a key witness to provide evidence to a Court.

2.8.12 The views of the local trade changed on being provided with these reassurances, and it is felt that one of the key reasons for dissatisfaction with the proposals was due to a lack of clarity regarding their implications.

2.8.13 The significant majority of local taxi users agreed with the introduction of this proposal.

2.8.14 It is therefore recommended that the proposals regarding application requirements are included in the revised policy.

2.9 The proposed amendments to the Policy are highlighted yellow in Appendix 1.

3. Options considered and recommended proposal

3.1 Option 1

Cabinet does not adopt the revised Hackney Carriage and Private Hire Licensing Policy. This option would still allow for delivery of the Council's statutory responsibilities in relation to hackney carriage and private hire licensing.

3.2 However, the lack of a clear and updated Policy would mean a lack of clarity for both applicants, and for the Licensing Board, in terms of the determination of licences. This could potentially mean a lack of consistency in determining licenses and potential unnecessary legal challenge to decisions.

3.3 Option 2

Cabinet adopts the proposed Hackney Carriage and Private Hire Licensing Policy. The adoption of the policy would enable the Council to discharge its statutory obligations more confidently and would ensure that the views of local residents and the local trade are taken into account.

3.4 In addition, an updated Policy would give clarity to applicants, officers and the Licensing Board when determining applications.

3.5 The preferred option is Option 2, and the proposed Hackney Carriage and Private Hire Licensing Policy is attached at Appendix 1.

4. Consultation on proposal

4.1 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 1,000 randomised residential addresses within the Rotherham Borough).
- Direct mail contact with all current taxi and private hire licence holders.
- Public drop-in sessions held 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.

4.2 In total, there have been 624 responses to the consultation.

4.3 Further detail on the responses provided in relation to each of the proposals is contained within section 2 of this report.

Full details of the consultation responses are attached as Appendix 2 to this report – this includes details of any individual or group comments / feedback that were provided during the consultation. It should be noted at this stage that over 100 responses received from the licensed trade were identical in nature (with identical comments). Although the responses have been included in the overall response figures, the repeat comments have been removed from the list of comments provided in Appendix 2 (but the total number of such comments has been acknowledged).

4.4 In addition to the above, consultation has also taken place with members of the Council's Licensing Board, who were generally in agreement with the proposals. A summary of the feedback provided by the Licensing Board is provided within Appendix 2.

5. Timetable and Accountability for Implementing this Decision

5.1 If adopted, the revised Policy will become effective immediately.

5.2 However, the policy requirements will be introduced in accordance with the Implementation Scheme attached to this report as Appendix 3.

6. Financial and Procurement Advice and Implications

6.1 The regulation of taxi and private hire driver, vehicles and operators that come under the remit of this policy is funded by means of the licensing fees that are attached to applications of this nature. These fees are reviewed as part of the Council's annual budget setting process.

6.2 As a result, the delivery of the functions outlined in this report, the costs of the recent consultation and future consultation on vehicle signage, and the

implementation of this policy will be contained within existing approved revenue budgets.

6.3 There are no procurement related implications introduced by this report.

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 established and 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 the 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 the consultation responses are conscientiously considered when deciding on the content of the policy, in order to minimise the risk of any legal challenge.

7.5 Any decisions made by the Council in relation to the changes to the policy must be rational, considering all relevant factors. Failure to do so could open up the policy to legal challenge on the grounds of unreasonableness.

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 must 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 However, as a significant proportion of individuals that are affected by this policy belong to a particular ethnic group, an Equalities Analysis has been undertaken and is attached as Appendix 4 to this report.

11. Implications for CO2 Emissions and Climate Change

- 11.1 This policy outlines requirements regarding vehicles that are considered suitable for licensing. One key change between the proposed / revised policy and the current policy relates to the ages of vehicles that are considered suitable for licensing.
- 11.2 The Council is mindful that older vehicles have the potential to have a greater impact on climate change and general air quality than newer, less polluting vehicles. It has therefore been necessary to strike a balance between reducing the financial burden on the local trade and limiting the impact on the environment.
- 11.3 Although the age limits have been increased, the requirement for the vehicles to be tested and well maintained remains. In addition, only vehicles that meet Euro 6 emission standards (the current highest level) will be allowed to be licensed beyond the current limit of 10 years.
- 11.4 Furthermore, the Council has expressed a commitment to explore the possibility of incentivising the purchase of the least polluting vehicles on the market through the use of grant funding and / or leasing schemes.
- 11.5 It is therefore the case that although this policy will have an environmental impact, the extent of the negative impact is negligible and it is felt that the proposals in relation to Euro 6 vehicles and ULEVs will have a positive impact on the climate change agenda.

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 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

Alan Pogorzelec, Licensing Manager

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	04/12/23
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	30/11/23
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	30/11/23

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