

Committee Name and Date of Committee Meeting

Cabinet – 21 December 2020

Report Title

Revision to the Hackney Carriage and Private Hire Policy 2020-23 Implementation Scheme

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

Yes

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, Cabinet approved a new Hackney Carriage and Private Hire Licensing Policy. Several changes to the existing policy were included, alongside an implementation scheme. This gave specific dates for elements of the policy to be applied, giving a reasonable period for both the Council and the licensed trade to make the necessary amendments. Due to the impact of Covid-19, some of these policy changes have not been able to be implemented. The implementation scheme has therefore been amended to set out new dates by which the policy will be applied in full.

Recommendations

1. That Cabinet approve the implementation of the Hackney Carriage and Private Hire Licensing Policy 2020-2023 as outlined in Section 2 of this report and in accordance with the implementation scheme attached as Appendix 3.
2. That Cabinet approve the additional short-term staffing requirement, to ensure the effective and timely delivery of training, as detailed in Section 2.4, funded from within the Directorate.

List of Appendices Included

Appendix 1	Equality Impact Analysis
Appendix 2	Hackney Carriage and Private Hire Implementation Scheme March 2020
Appendix 3	Hackney Carriage and Private Hire Implementation Scheme amended December 2020

Background Papers

Rotherham Metropolitan Borough Council Hackney Carriage & Private Hire
Licensing Policy 2020-2023

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Revision to the Hackney Carriage and Private Hire Policy 2020-23

Implementation Scheme Error! Reference source not found.

1.	Background
1.1	Cabinet adopted the Hackney Carriage and Private Hire Policy 2020-23 on 23 rd March 2020. This was the culmination of a significant consultation process, which sought to further improve the Council's already comprehensive policy.
1.2	Within the policy were seven key changes which strengthened the Council's commitment to the licensing functions. Five of these changes required an implementation process, to ensure an orderly transition for both the Council and the licensed trade, giving a reasonable timeframe to fulfil the requirements of the policy.
1.3	On the same day that Cabinet approved the policy, the Government announced the first set of national restrictions due to coronavirus. This initial 'lockdown' led to the Council declaring a major incident in order to respond effectively to a global public health crisis.
1.4	Since March, national guidance has determined the level of services that could be provided to residents. Closure of Council buildings, working from home arrangements, social distancing and the restrictions on running events have meant that only some of the functions of the service have been able to continue. This has been regularly reported through the Council's incident management structure.
1.5	These restrictions have impacted directly on the Licensing Services, as the service is also responsible for the licensing of pubs, bars and restaurants. Officers have been required to advise on and enforce several time-limited pieces of legislation alongside colleagues in Environmental Health, Trading Standards and South Yorkshire Police. This reactive work could not have been planned for and had to be prioritised.
1.6	A number of licensing services across the country suspended their taxi licensing functions with the introduction of national restrictions in March and have yet to be resumed due to the ongoing situation. However, notwithstanding the pressures listed in Section 1.5, the main elements of the Licensing service have continued to be delivered, and the service has also implemented a number of substantial service improvements, to ensure that the licensing functions of the Council have been able to continue as far as possible. For example, new digital application systems have been implemented to adapt the way that drivers and vehicle licences were renewed, which have ensured that the current licensed trade have been able to continue to operate. These processes were planned and delivered quickly and are very innovative, showing how the Council's licensing service continue to prioritise improving practices.
1.7	Furthermore, the Council has also delivered a complex grant scheme for the licensed trade, awarding each driver a £500 grant to alleviate some of the

	financial pressures that they face due to the unprecedented situation that they find themselves in. This has required a substantial effort from across the Council, including close consultation with the licensed trade to ensure that the application process was as simple and efficient as possible.
1.8	Finally, officers have been involved with the changes to committee meetings. The first virtual meeting of Licensing Board took place on 28 th May 2020, which required a huge effort from the service to ensure that both the Council's constitution and Licensing policies were upheld. Virtual meetings of the Council's Licensing Board and Committee have ensured that urgent cases, dealing with immediate safeguarding and public safety concerns, have continued to take place.
1.9	However, some parts of the implementation scheme originally agreed in March, before the impacts of Covid-19 had been fully realised, have been delayed, as well as the public consultation that was due to take place. An update on the progress of each policy change, and the consultation, is detailed below with proposals for amendment to timescales that will allow for the policy requirements to be implemented as quickly as practically possible, whilst ensuring compliance with national restrictions and measures.
2.	Key Issues
2.1	The implementation scheme that was agreed by Cabinet in March 2020 is attached to this report as Appendix 2.
2.2	As has been detailed above, it has not been possible to implement a number of the requirements contained within the revised policy in accordance with the previously agreed scheme.
2.3	Ancillary Operator Staff This part of the implementation scheme is on track and will be completed in full by 31 st July 2021. The status of each element is described below.
2.4	Refresher Training Within the original implementation scheme, it was approved that an in-person refresher training session would be developed by June 2020, which would then be delivered to any driver renewing their driving licence application. Although this training package was produced, its purpose was to facilitate discussion and exploration of new and emerging issues in a classroom-based environment. Due to the ongoing restrictions, this package is being amended to enable training to be delivered virtually, whilst ensuring there is still meaningful interaction and opportunity for discussion and questions within the virtual training. In order to facilitate the effective delivery of this training, groups will be limited to ten participants. This number is considerably less than what could have

	<p>been delivered in a classroom-based session and will therefore require more sessions per month than envisaged originally. The need for additional sessions will require additional resources to deliver the training, as there is not sufficient capacity in the service to deliver the amended package. It is estimated that this will be an ongoing commitment of 0.5 FTE per week. It is proposed that Cabinet approve this temporary increase in staffing, which will also be utilised to deliver training for new applicants, which has not been able to take place for a number of months due to the restrictions described in Section 1.5.</p> <p>Initial testing with a small group of licence holders is planned for December 2020, which if successful, would be rolled out to the wider trade in January 2021. Therefore, it is proposed to attach a condition on all licences from 1st January 2021 – 1st April 2021 that refresher training is undertaken within three months of the licence being issued. Drivers after this period will be required to complete the refresher training within the six months prior to their licence being renewed.</p>
2.5	<p>Camera storage</p> <p>Cabinet agreed a new requirement for all camera systems within vehicles to be capable of recording twenty-one days of footage, increasing the requirement from fourteen days.</p> <p>All new vehicles that have been licensed since 1st May 2020 comply with this new requirement, plus an additional 50% of the current vehicle fleet, which were already compliant with this requirement.</p> <p>The remaining vehicles will require an upgrade by their system provider. As a result of restrictions, the largest company that is utilised by the sector has not been undertaking any work except for essential repairs.</p> <p>Furthermore, many drivers have not been able to work for a significant period of time, following the introduction of national and regional restrictions. This has created a significant financial burden on a large number of drivers, with a £500 grant being given to all licensed drivers to provide emergency relief. The cost of upgrading the camera system is likely to be approximately £150 to £200, adding further financial strain.</p> <p>The risk of non-compliance is considered low as all camera systems do hold a minimum of fourteen, twenty-four hour periods of footage and due to the decreased demand for licensed vehicles, larger periods of time are very likely to be available if required.</p> <p>Based on this, it is proposed that an extension of six months is agreed to give drivers until 31st July 2021 to comply fully with this amendment to the policy.</p>
2.6	<p>Vehicle Signage</p> <p>The policy in relation to vehicle signage was amended in accordance with the approvals given by Cabinet, which allows for vehicles to display additional</p>

	<p>signage as per the previous report.</p> <p>However, a further piece of work was also agreed which consisted of redesigning the signage on, and within, licensed vehicles to give more information, as well as additional signage for driver identification and audio activation switches.</p> <p>This redesign process has yet to commence due to the various pressures faced by the service. However, after discussions with stakeholders across the Council, this is now a piece of work that could be progressed from January 2021 and is expected to take six months to deliver.</p> <p>It is therefore proposed that a date would be fixed no later than 31st July 2021, giving reasonable notice to the trade, as to when additional vehicle signage requirements would take effect.</p>
2.7	<p>Driver Identification</p> <p>Similarly to Section 2.6, a redesign process was also recommended in relation to driver identification badges. This will be included in the redesign process as above to ensure consistency.</p> <p>Changes to the original conditions in the policy means that drivers are able to wear their existing badge on a lanyard or an armband, but the redesign process will make the badge easier to display.</p> <p>Under this amended proposal, new badges would be issued to drivers at licence renewal or upon successful completion of their application, from no later than 31st July 2021. A driver could also request the newer style of badge from this date and would be liable for the cost of any replacement badge issued. It is expected that there would be a high demand for new badges upon request which would reduce the time period in which there would be different types of identification in place.</p>
2.8	<p>Public Awareness Campaign</p> <p>The Council still believe that a public awareness campaign should be delivered to improve awareness across the borough of the changes made to the policy, as well as to the safety of vehicles licensed in Rotherham. It is proposed that this would take place in Summer 2021 once all other parts of the implementation scheme have come into effect.</p>
2.9	<p>A draft implementation scheme incorporating the above proposals is attached this report as Appendix 3.</p>
3.	<p>Options considered and recommended proposal</p>
3.1	<p>There are three options that have been considered in relation to the implementation of the policy, these are detailed below:</p>

3.2	<p>Option 1 Carry out implementation of the policy as outlined in Section 2 above and in accordance with the implementation scheme attached to this report as Appendix 3.</p> <p>This is the preferred option and is considered to be an appropriate balance between expedient implementation of the policy (with key safety related measures prioritised) and the effective delivery of the general licensing function.</p>
3.3	<p>Option 2 Carry out implementation scheme as quickly as is practicable across all changes, diverting to resources within the licensing service away from other licensing functions (including enforcement) and to implementation of policy.</p> <p>This option is considered to expose the Council to a significant risk of failure in delivering the statutory functions of the licensing service, and potentially expose the public to risks to their safety due to inadequate enforcement of the relevant requirements. Consequently, this option is not recommended.</p>
3.4	<p>Option 3 Do not proceed with the implementation scheme until such a time where restrictions are sufficiently lifted and pressures on the service are reduced.</p> <p>Although this option allows for maximum flexibility in relation to the implementation of the policy, it may lead to an excessive delay in the implementation of key elements of the revised licensing policy. These elements are designed to ensure high standards within the trade and protect those that use licensed vehicles in Rotherham.</p> <p>It is for these reasons that this option is not being recommended.</p>
3.5	<p>Further detail in relation to Option 1 can be found on the revised implementation scheme, attached as Appendix 3 to this report.</p>
4.	<p>Consultation on proposal</p>
4.1	<p>Significant consultation was carried out prior to the introduction of the revised policy early this year. The implementation scheme did not form part of this consultation but was given full consideration by Cabinet in March 2020.</p>
4.2	<p>Informal discussions with representatives of the licensed trade have indicated general support for the proposal to amend the implementation scheme (largely due to the pressures on the trade identified elsewhere in this report). Any amendment to the implementation scheme will be communicated to the trade representatives for onward dissemination to the wider trade.</p>
5.	<p>Timetable and Accountability for Implementing this Decision</p>
5.1	<p>Subject to the amendments being approved, work will commence in</p>

	accordance with the revised implementation scheme as soon as practicable.
6.	Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)
6.1	Additional short-term staffing resources are required in order to deliver driver training and testing due to Covid 19, restrictions on the number of attendees and the implications of a switch to on-line training. These additional requirements will be considered for authorisation and funding at wider functional level within R&E. The estimated additional costs are £4,500 and will be reported as a temporary cost resulting from the impact of Covid 19.
7.	Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)
7.1	The Local Authority has a statutory duty to issue a private hire/hackney carriage licence on receipt of an application (subject to the fit and proper person test). In order to comply with the statutory duty and to assess a person's fitness to hold a licence, the Local Authority needs a fully established and functioning policy in place.
7.2	It is necessary that the Local Authority is able to deliver on the requirements contained within its own policy, in particular in relation to the training elements. In order to minimise any risk of challenge by way of appeal, judicial review or any ombudsman complaint, it is vital that the policy is fully implemented to enable the Council to discharge its statutory duty.
8.	Human Resources Advice and Implications
8.1	HR implications are contained within the 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 Dame 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 service 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 Licensing 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 multi-agency 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 ensure that all decisions are equally applied 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	A full Equalities Impact Assessment was completed as part of the development of the revised Hackney Carriage and Private Hire Licensing Policy. This report does not introduce any additional considerations that may impact on this assessment, therefore it is not considered necessary to complete a further assessment at this time. The original Equality Impact Assessment is attached at Appendix 1.

11.	Implications for Ward Priorities
11.1	This policy will be applied directly and equally to all wards within the borough.
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 the transparency and equity of the Council's enforcement approach, 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	07/12/20
Strategic Director of Finance & Customer Services (S.151 Officer)	Named officer	04/12/20
Head of Legal Services (Monitoring Officer)	Named officer	04/12/20

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