



**EAST STAFFORDSHIRE BOROUGH COUNCIL**

Report to Full Council

Date: 3rd December 2018

<b>TITLE:</b>	Hackney Carriage and Private Hire Policy Review and Consultation	
<b>PORTFOLIO:</b>	Enforcement Services	
<b>HEAD OF SERVICE:</b>	Mark Rizk	
<b>CONTACT OFFICER:</b>	Louise Kemplay - Interim Enforcement Manager	ext. 1343
<b>WARD(S) AFFECTED:</b>	All	

1. **Purpose of the Report**

- 1.1 The Council is committed to periodically reviewing the content of the Hackney Carriage and Private Hire Policy to ensure it is fit for purpose. The last review took place in 2015.
- 1.2 The purpose of this report is to seek approval of the draft revised Hackney Carriage and Private Hire Policy 2018 following a consultation that concluded on the 18<sup>th</sup> October 2018 and a Licensing Committee Hearing on the 19<sup>th</sup> November 2018.

2. **Executive Summary**

- 2.1 The Licensing Team commenced a review of the consultation of the Hackney Carriage and Private Hire Policy in October 2018.
- 2.2 A number of areas were highlighted that required consideration for amendment, these being a mix of statutory and procedural, in nature, including requests from the Licensed Trade at a Trade Meeting which was held on the 20<sup>th</sup> June 2018. A matrix of the proposed changes is shown in Appendix 2.

3. **Background**

- 3.1 The Hackney Carriage and Private Hire Policy was first introduced in 2008. Since then the Policy has been regularly reviewed. The Policy brings together all matters relating to

the Private Hire and Hackney Carriage trade in East Staffordshire which the licensing and enforcement teams follow.

- 3.2 The licensing and enforcement team use two main statutes to regulate the hackney carriage drivers and proprietors, private hire drivers, proprietors and operators along with Best Practice Guidance issued by the Department for Transport:

3.2.1. Town Police Clauses Act 1847

3.2.2. Local Government (Miscellaneous Provisions) Act 1976

- 3.3 The aim of the policy is to provide a transparent, fair, consistent and proportionate process. The revised Hackney Carriage and Private Hire Policy will continue to achieve this by having in place a published policy, which lays out a set of principles which can be applied.
- 3.4 The Licensing Committee will be required to consider the draft Policy and make appropriate recommendation to Council on its adoption.

#### 4. **Contribution to Corporate Priorities**

- 4.1 The issues raised in the report impact on the following Councils objective - Protecting and strengthening communities. Having a clear Hackney Carriage and Private Hire Policy in place will protect those that are vulnerable and ensure businesses and those that access our services are aware of what is expected by the authority.

#### 5. **Report**

- 5.1 The Hackney Carriage and Private Hire Policy is due for a review and update during 2018. The policy brings together all matters relating to the private hire and hackney carriage trade in East Staffordshire which the licensing and enforcement teams follow.
- 5.2 Currently the Authority licence: 52 Private Hire Operators, 179 Hackney Carriage Vehicles, 287 Private Hire Vehicles, 27 Hackney Carriage Drivers, 212 Private Hire Drivers, and 443 Combined Private Hire and Hackney Carriage Drivers.
- 5.3 It should be noted that work is currently being undertaken in relation to the review of the Councils fees and charges. As a result of changes brought about by the Deregulation Act 2015 affecting the licensing of Hackney Carriage and Private Hire Drivers and Operators, it is necessary to revise these fees in advance.
- 5.4 Licensing officers have conducted a review of the policy and proposed changes. A consultation exercise has been conducted which commenced on the 20<sup>th</sup> September 2018 and concluded on the 18<sup>th</sup> October 2018. The consultees included the licensed 'taxi' trade within the Borough of East Staffordshire and extended to disability groups, Vehicle Hire Companies, Medical Practitioners, Testing Stations, Police, the Fire and Rescue Service and Members.
- 5.5 The proposed amendments to the policy are shown in Appendix 2

#### 6. **Consultation Outcomes**

- 6.1 The Council received a total of 9 responses with a variety of comments.

- 6.2 Consultation took place with all of those licensed within the taxi trade within the Borough of East Staffordshire, also disability groups, Vehicle Hire Companies, Testing Stations, Police, Fire and Members.
- 6.3 A meeting of the Licensing Committee was held on the 19<sup>th</sup> November 2018. The outcomes of the consultation were presented for discussion.
- 6.4 Consideration was given to the proposed amendments by the Licensing Committee and the following outcomes were recommended for approval:

7. **Exclusion of electronic cigarettes and ‘vapes’ from being used inside licensed vehicles**

The Health Act 2006 requires all vehicles used as public vehicles to be smoke free at all times, including when they do not have passengers. The purpose of this is that the passenger will be confident that they are able to remain free from the risk of second hand smoke exposure.

The exclusion of electronic cigarettes and ‘vapes’ will leave no uncertainty for Authorised Officers who investigate complaints regarding drivers allegedly smoking in licensed vehicles.

The suggested wording is as follows; “the licence holder shall not smoke tobacco or e-cigarettes, including vapes and heat-not-burn devices, at any time in the vehicle”.

- 7.1 The Licensing Committee recommended this change to Full Council as set out.

8. **Adoption of the Guidance issued by the Institute of Licensing on determining the suitability of applicants and licensees in the hackney and private hire trades**

In April 2018, the Institute of Licensing produced guidance following widespread consultation and work in partnership with the Local Government Association, Lawyers in Local Government and the National Association of Licensing and Enforcement Officers.

The Guidance states that the document intended to provide guidance on determining suitability, taking into account the character of the applicant or license holder and its relevance to their ‘fitness and propriety’ or ‘character’.

- 8.1 The Licensing Committee recommended this change to Full Council as set out.

9. **Extension of the current knowledge test to include an oral test**

The Council’s knowledge test is for new driver applicants and existing drivers where directed by the General Licensing Sub-Committee. An applicant will undertake a test

which comprises of a route test to establish knowledge of the area. There are also tests including a written test in respect of the conditions of the licence applied for, a test on the highway code, training on Disability Awareness and Safeguarding, a test on arithmetic and finally, writing out a written receipt for a customer.

It is proposed that the Council would develop the knowledge test for drivers to undertake an oral test in addition to the written test.

It is anticipated that it will improve customer service to residents, businesses and visitors to the Borough.

9.1 The Licensing Committee recommended this change to Full Council as set out.

10. **Wording of the Policy to be amended regarding the text messaging service**

The existing Policy states that it is the vehicle proprietor's responsibility to ensure that continuous cover of insurance and compliance test certificates are provided to the Licensing Office. One telephone reminder will be made to the proprietors on the working day prior to the document expiring, but this is just a courtesy service and no further calls will be made.

The Licensing Team are continually reviewing their practices to ensure they provide an efficient and cost effective service. A text messaging service has recently been introduced and it is proposed that the wording on the Policy is amended to:

"Text reminders will be sent from the Licensing Office before the document expires. This is just a courtesy service. It is the proprietor's responsibility to ensure that the documents are submitted via email or in person by prior appointment."

10.1 The Licensing Committee recommend this change to Full Council as set out.

11. **Wording of the Policy to be amended regarding lost property**

Appendix F of the Conditions of Private Hire Driver's Licence (Local Government (Miscellaneous Provisions) Act 1976) states:

"3 Lost Property. At the end of every journey, the driver shall carefully search the vehicle for any property, which may have been accidentally left in the vehicle. If the driver finds it or is handed by any other person carried in the vehicle, property that is left in the vehicle, he/she shall report the particulars of the property to the operator. If the property is not claimed within 48 hours of being reported, the driver shall take the property to the nearest police station and obtain a receipt for it".

The Council have been advised that from the 1<sup>st</sup> October 2018, lost property reporting through Staffordshire Police stopped. This is a national change affecting all police forces.

Staffordshire Police have issued advice stating that most found property does not need to be passed to the Police and that items can be handed to the premises owner or public transport operator where they were found.

There are certain items that members of the public are not allowed to retain and claim under any circumstances. These include: drugs, firearms, weapons, ammunition, non UK

passports, high value items, laptops and cameras, mobile phones, unidentifiable substances or other items that may pose a danger or harm to others.

In the event that any items found are not listed above it is the responsibility of the finder to make reasonable efforts to trace the owner.

11.1 The Licensing Committee recommend this change to Full Council as set out.

12. **Amendment of Appendix AA of existing Policy: Definition Of “Exceptional Vehicle” for Private Hire Vehicles to include Hackney Carriage Saloon Vehicles**

The term “exceptional vehicle” is used to describe vehicles which are over the age limit set by the Council, but that can continue to be licensed because of their condition. The status of exceptional vehicle only applies to vehicles that carry out executive and chauffeuring contract work. This only applies to Private Hire vehicles.

Any Council, which imposes an age limit on its vehicles, must be prepared to consider applications from vehicles that are in exceptional condition.

A vehicle of exceptional condition is one where the components i.e. mechanical, body, panels, paint and trim are in exceptional condition with regards to the age of the vehicle. It is essential that the image of the exceptional older vehicle uphold the standards set by

a much younger vehicle. These vehicles will be required to have a certificate of compliance every 6 months.

The current age limits are 7 years for a Private Hire vehicle, 7 for a Hackney Saloon vehicle and 10 for a Hackney Carriage vehicle.

Representatives from the Trade have proposed that the Policy is amended to extend the definition of “Exceptional Vehicles” to include Hackney Carriage Saloons. The key items to be considered when determining whether or not a vehicle meets the standard expected of vehicles in exceptional vehicles would remain the same.

12.1 The Licensing Committee recommend the inclusion of hybrid vehicles.

13. **Financial Considerations**

*This section has been approved by the following member of Financial Management Unit  
Anya Murray*

13.1 The council is unable to recover the total cost of delivering its licensing service as it can only charge in accordance with statutory requirements. Each licence is different but for instance, the fee for a vehicle and operator’s licence ‘may be sufficient in the aggregate to cover in whole or in part-

- (a) The reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or reviewed;
- (b) The reasonable cost of providing hackney carriage stands; and
- (c) Any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles

- 13.2 As a result, the proposed fees for drivers/operator's licence fees over 3/5 years do not provide the same income level as the chargeable work involved has reduced.
- 13.3 For 2015/16, the impact of this reduced income is anticipated to be recovered by the increased volume of applications currently being experienced.
- 13.4 The report outlines where there is expected to be additional work involved if the proposals being consulted upon are agreed. This will lead to additional fees in line with the additional work which will be applicable from 1 April 2016.
- 13.5 For the purposes of the consultation, an estimate has been made of the anticipated fee rates which would be applicable based on the currently proposed policy. These have been identified in Appendix 3 along with the proposed 3/5 yearly licence fees. It should be noted that changing the requirements following consultation will change these estimated fees.
- 13.6 A review of licensing fees and charges is already scheduled to be brought to Licensing Committee by the end of December and this will include changes as a result of this consultation as well as a review of costs being incurred and the current level of applications.

#### 14. **Risk Assessment and Management**

- 14.1 The main risks to this report and the Council achieving its objectives are as follows.
- 14.2 Positive (Opportunities/Benefits):
- 14.2.1 Council will have an adopted policy in place to advise applicants, officers of the Council and Licensing Committee when implementing the provisions of the Hackney Carriage and Private Hire Policy.
- 14.3 Ensure consistency of licensing function by the Council in the exercise of its duties.
- 14.4 Negative (Threats)
- 14.4.1 Failure to review and adopt the Policy in a timely manner exposes the Council to the risk of challenge.
- 14.4.2 The fees currently charged needs to be reviewed following this report, to ensure that the reasonable costs to the Council are recovered.
- 14.5 The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

#### 15. **Legal Considerations**

*This section has been approved by the following member of Legal Services*

*Angela Wakefield*

There are no significant legal issues arising from this Report. However should operational issues arise, they shall be dealt with on a case by case basis and if and when necessary, minor amendments shall be incorporated into timely reviews of the document, as indeed shall be the case for legislation and good practice guidance.

16. **Equality and Health**

16.1 **Equality impacts:** The subject of this Report is a policy, strategy, function or service that is being revised. An equality impact assessment is not required.

16.2 **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

17. **Human Rights**

17.1 There are no Human Rights issues arising from this Report. However the Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principles of proportionality i.e. is the decision/ action proportionate to what it wishes to achieve.

18. **Sustainability (including climate change & change adaptation measures)**

18.1 There are no sustainability issues arising from this Report.

19. **Recommendation(s)**

19.1 It is recommended that Council approve approve the recommendations made at 7- 12.

20. **Appendices**

20.1 Appendix 1: Draft Hackney Carriage and Private Hire Policy 2018

20.2 Appendix 2: Matrix of proposed changes

20.3 Appendix 3: Responses received to Consultation

20.4 Appendix 4: Copy of Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades. Produced in April 2018 by the Institute of Licensing in partnership with Lawyers in Local Government, NALEO and the Local Government Association