

# Licensing Committee

10 March 2020

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

## Hackney Carriage and Private Hire Licensing Policy – Review 2020

<b>Final Decision-Maker</b>	Licensing Committee
<b>Portfolio Holder(s)</b>	Councillor Matthew Bailey, Portfolio Holder for Sustainability
<b>Lead Director</b>	Paul Taylor, Director of Change and Communities
<b>Head of Service</b>	Gary Stevenson, Head of Housing, Health & Environment
<b>Lead Officer/Author</b>	Sharon Degiorgio, Senior Licensing Officer
<b>Classification</b>	<b>Non Exempt</b>
<b>Wards affected</b>	ALL

### This report makes the following recommendations to the final decision-maker:

1. That the Committee reviews the draft revised Hackney Carriage and Private Hire Licensing Policy 2020 and instructs officers to undertake a public consultation. A further report will be brought back to the Committee to consider the results of this exercise and take these into consideration where appropriate, prior to the formal adoption of the revised policy.

### Explain how this report relates to the Corporate Priorities in the Five Year Plan:

- A Confident Borough  
In the interests of public safety, the licensing framework is intended to ensure that the people of Tunbridge Wells can be confident that all licensed drivers are fit and proper persons to hold such a licence.

### Timetable

<b>Meeting</b>	<b>Date</b>
Licensing Committee	10 March 2020

# Hackney Carriage and Private Hire Licensing Policy – Review 2020

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Officers review the current Hackney Carriage and Private Hire every five years and from time to time to ensure it remains current.
  - 1.2 The Committee are therefore requested to consider the draft revised policy before the document is subject to public consultation. This document sets out the authority's framework for the administration and enforcement of managing the provision of licensed Drivers, Vehicles and Operators.
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## 2. INTRODUCTION AND BACKGROUND

- 2.1 Taxis and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available (for example in rural areas, or outside “normal” hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.
- 2.2 The aim of licensing the hackney carriage and private hire vehicle trade is, primarily to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the authority's hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required.
- 2.3 The Council currently licenses approximately 62 Operators, 107 hackney carriages and 154 private hire vehicles. There are approximately 286 drivers licensed by the Council that are able to drive both vehicles.
- 2.4 The Council has responsibility for licensing hackney carriage and private hire vehicles, drivers and operators within the borough of Tunbridge Wells. This latest policy revision incorporates guidance, best practice and recommendations from the Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing.
- 2.5 The Government established a Task and Finish Group (TFG) on Taxi and Private Hire Vehicle (PHV) Licensing in September 2017. The group had a wide remit to look at current taxi and PHV legislation, licensing authority powers, and to make *specific and prioritised recommendations; legislative and non-legislative for action to address identified and evidenced issues*.
- 2.6 The TFG comprised a number of interested bodies and persons related to the Taxi and PHV trade and a number of other bodies and persons were interviewed by them. There was no public *consultation*; however the Local Government Association (LGA) represented the interests of Licensing Authorities
- 2.7 The TFG submitted its report setting out 34 recommendations to Government on 9 July 2018, *stating* ‘the report aims to produce a holistic ecosystem and solution to the problems it was devised to address and, as a result, to set out a comprehensive

platform for changes necessary to protect and promote the public interests in the common good’.

- 2.8 The Government published its response on 12 February 2019 and local authorities are now awaiting Statutory Guidance.
- 2.9 The content of the revised policy set out in Appendix A has not changed significantly from our current policy other than inserting a select number of the TFG recommendations ahead of national standards and legislation for mandatory inclusion.
- DBS – applicants for new/renewal driver applications will be required to sign up to the DBS online update checking service;
  - All new driver applicants will be required to undertake the new ‘Equality Online’ ‘EQUO’ online test on Safeguarding & Disability Awareness/County Lines Education;
  - All existing drivers will be required to undertake the new ‘EQUO’ online test on Safeguarding & Disability Awareness/County Lines Education at least once. Once passed they will not be required to retake at future renewals;
  - National Register of Taxi Licence Refusals and Revocation (NR3);
  - Private Hire Operators – Basic DBS check for all Ancillary staff; and
  - Minor tweaks and clarification in other areas.
- 2.10 A summary of the key changes are set out at Appendix B.
- 2.11 A breakdown of what is included in the ‘Equality Online’ training module is set out at Appendix C
- 2.12 The key premise remains the same, which it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in light of their own views of the relevant considerations.
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### **3. AVAILABLE OPTIONS**

- 3.1 An alternative option would be to continue to rely on the current Hackney Carriage and Private Hire Licensing Policy; however this does not incorporate recent changes in best practice, guidance and legislation.
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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the Borough’s residents, visitors and business community.
- 4.2 A modern, effective policy document will ensure that the trade and the public will have a document that fully explains the licensing process. It will also ensure consistency of approach by Officers ensuring fairness to the trade.
- 4.3 The proposed policy, whilst comprehensive, aims to strike a balance that will be of benefit to the trade, the public and the Licensing Authority. It also aims to ensure that high standards are offered by the licensed trade.
- 4.4 The proposed policy aims to build upon the current policy that Tunbridge Wells Borough Council has in operation.

- 4.5 The Committee must decide whether firstly, the current policy should be updated and, secondly if it should then be subject to public consultation. The preferred option is that Members agree to amend and review the current policy and approve for consultation.

## 5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 If the Committee determine that the current policy should be updated it would be proposed to undertake a 12 week consultation on the proposed new policy in accordance with HM Governments' Code of Practice on consultation. This will be undertaken by a variety of means including emails to the trade, the Taxi Association representatives and on the Council's website. If the Committee agree to the proposed document, it is envisaged that the consultation process will commence within 10 working days of the decision.

## 6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If the Committee agree to implement a revised policy then this will be communicated by way of the consultation process, namely by way of correspondence via email to all drivers, Operators and vehicle proprietors where we have their email address and via the TWBC webpage.

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Legal</b> including Human Rights Act	<p>There is no legal requirement to have a policy; however, Tunbridge Wells Borough Council has chosen to have one in place as it is felt that a policy ensures a transparent and consistent approach to licensing.</p> <p>Whilst there is always a right of appeal through the Courts to a decision of the local authority in respect of their licensing function, the Council is in a stronger position to defend the decision being appealed against if it can demonstrate that it has adhered to its published policy and there is no justifiable reason to depart from it.</p> <p>Human Rights Act</p> <p>In formulating this draft Policy the Council has had regard to the provisions of the Human Rights Act 1998. This Act places a duty on public authorities to protect the rights of individuals in a variety of circumstances.</p>	<p>Robin Harris, Senior Lawyer (Contentious) 25.02.2020</p>
<b>Finance</b> and other resources	<p>There are no financial issues because provision is made in the Council's budget for the taxi licensing service, which is run on a cost recovery basis. The cost of consultation will</p>	<p>Sharon Degiorgio Senior Licensing Officer 25.02.2020</p>

	form part of the administrative function.	
<b>Staffing establishment</b>	There are no staffing implications.	Sharon Degiorgio Senior Licensing Officer 25.02.2020
<b>Risk Management</b>	<p>A policy would ensure a transparent and consistent approach to licensing that would reduce the opportunity for challenge ultimately through the Courts.</p> <p>Whilst there is always a right of appeal through the Courts to a decision of the local authority in respect of their licensing function, challenges to a particular decision are more likely to fail if the Council can demonstrate that it has adhered to its published policy and there is no justifiable reason to depart from it.</p>	Sharon Degiorgio Senior Licensing Officer 25.02.2020
<b>Data Protection</b>	No issues identified	Sharon Degiorgio Senior Licensing Officer 25.02.2020
<b>Environment and Sustainability</b>	<p>In setting out its policy, the Council seeks to promote the following objectives, through the licensing process:</p> <p>The protection of public health and safety;</p> <p>To provide and maintain a professional and respected hackney carriage and private hire trade, by continued monitoring and improvement of their required standards of service;</p> <p>Assistance with public access to an efficient and effective public transport service, as part of the Council's integrated transport policy;</p> <p>The protection of the environment;</p> <p>The aim of the licensing process, in this context, is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Council's wish to facilitate professional and responsible businesses, which display sensitivity to the wishes and needs of the general public.</p>	Sharon Degiorgio Senior Licensing Officer 25.02.2020
<b>Community Safety</b>	Public safety is paramount in the licensing regimes that govern these vehicles, their drivers and operators. The licensing and compliance role of the Council is important in improving the safety, security and welfare of the Borough's	Terry Hughes – Community Safety Manager 25.02.2020

	<p>residents, visitors and business community. The Council must be satisfied that all Hackney Carriage and Private Hire Drivers it licences are fit and proper to hold a licence.</p> <p>The rationale behind a licensing regime covering this important part of the public transport is the provision of a service to the public that is accessible and safe, and seen to be so.</p>	
<b>Health and Safety</b>	No issues identified	Sharon Degiorgio Senior Licensing Officer 25.02.2020
<b>Health and Wellbeing</b>	No issues identified	Sharon Degiorgio Senior Licensing Officer 25.02.2020
<b>Equalities</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to</p> <ul style="list-style-type: none"> <li>i. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;</li> <li>ii. Advance equality of opportunity between people from different groups; and</li> <li>iii. Foster good relations between people from different groups.</li> </ul> <p>Members have previously considered the introduction of an online knowledge test and the potential implications for people with protected characteristics, at a meeting of the Licensing Committee on 6<sup>th</sup> September 2016. The implications of the provision and availability of wheelchair accessible vehicles on people with disabilities was considered in 2014, when rear-loading vehicles were introduced. These implications will be reviewed in light of the findings of the unmet demand survey and the planned consultation and reported back to the committee. We have not identified any implications, for people with protected characteristics, from the remaining changes proposed for the Hackney Carriage and Private Hire Licensing Policy.</p>	<p>Sarah Lavallie, Corporate Governance Officer, Performance and Improvement</p> <p>25.02.2020</p>

## **8. REPORT APPENDICES**

The following documents are to be published with and form part of the report:

- Appendix A: Draft revised Hackney Carriage and Private Hire Licensing Policy 2020
  - Appendix B: Table of changes for draft revised Hackney Carriage and Private Licensing Policy 2020
  - Appendix C: Breakdown of what is included in the Equality Online test
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## **9. BACKGROUND PAPERS**

- TWBC Hackney Carriage and Private Hire Licensing Policy 2017  
[http://www.tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0008/97991/Final-Ratified-Taxi-Licensing-Policy-2017-updated-21.01.19.pdf](http://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0008/97991/Final-Ratified-Taxi-Licensing-Policy-2017-updated-21.01.19.pdf)
- Local Government Association (LGA) Taxi and PHV Licensing: Councillors' Handbook (England and Wales)  
<https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>
- Government response to the TFG report on a safer system of taxi and private hire vehicle licensing  
<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-government-response-to-independent-report>