

RTW Town Forum response to the

Draft Hackney Carriage and Private Hire Licensing Policy 2020 - 2025

In March 2017, the RTW submitted a detailed response to the Draft Hackney Carriage and Private Hire Licensing Policy 2016 which was published in the shadow of the Rotherham of child sex abuse scandals (1980s-c2010). Several Councils had already tightened their licensing terms following these events when we compared their terms with the TWBC draft in 2017. We welcome that in *3. Public Safeguarding and Child Sexual Exploitation* and elsewhere in this policy, reference is made to Operation Willow, the Kent and Medway awareness raising campaign around CSE (child sexual exploitation).

Noted

RTW Town Forum's aim was then, as now, to ensure that "TWBC licensing policy is of the highest order providing a watertight system of vetting that is not open to fraud, and one that promotes zero tolerance of bad behaviour, bad driving, crime or deception."

We are therefore surprised and disturbed to read in *1. Policy Justification*, that "Licensing requirements which are unduly stringent may restrict the supply of HC and PHV services, by increasing the cost of operation or restricting entry to the trade. Furthermore, the Council recognises that an unduly restrictive approach may be detrimental to the public interest and could have adverse safety implications." This implies to us that the Licensing Partnership are prepared to accept lower standards among drivers and operators to ensure enough taxis are available rather than set high standards to ensure the safety of the people of Tunbridge Wells and all who use its taxi services.

Noted. This Policy sets out Tunbridge Wells Borough Councils standards of operation which may or may not be identical to other Partners within the Licensing Partnership. Therefore there is no proposal to reduce the standards set out within this document and remains unchanged from the existing policy document.

Furthermore, this policy does not take account of the possible alternative models of taxi services such as Uber which may apply to trade in Tunbridge Wells in future. This policy needs to clarify whether its terms are appropriate for these new services given their different business structure and processes for driver verification. As this policy runs from 2020-2025, there is a high possibility that this issue will arise and a likelihood that this policy may have to be reworked accordingly unless some clarification is included now.

The proposed policy does not inhibit Uber style operations. If Uber or similar were to establish operations within the Borough of Tunbridge Wells they would be required to meet the same standards set for our existing providers.

RTW Town Forum continues to be concerned that this Draft policy falls short as follows:

1. *Section 4 Online Forms:* We welcome the safeguard that new licence applicants must meet face to face with the officer initially and that original documentary evidence is required (4.2 and 6.3). However, for subsequent renewals which are online, this face to face meeting is not required (4.4). Scanned documents are acceptable for renewing licences online but this opens the possibility of fraud by doctoring documents.

Like many Government agency departments there is a drive to move over to e-forms identity verification to improve efficiency and manage costs, that said, safeguards are built in to identify potential anomalies. The risk associated with adopting this approach is felt to be minimal and that TWBC has no evidence of significant attempts of falsification.

2. We feel that not having a face to face meeting with those renewing their licenses (usually every three years) is a missed opportunity for officers to be proactive in ensuring the taxi drivers and the fleet continue to be of a high standard by checking documentation, immigration status, medical, language, penalty points, complaints and other relevant checks to ensure each driver continues to be a 'fit and proper person.' As above, scanned documents should not be accepted as this opens the possibility of fraud.

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3. The Knowledge Test completed online could be subject to fraud if not completed in controlled conditions such as in council office or similar. (see 5.3 and Appendix 4 para 3, and section 14 Online Test for Existing Drivers)

Although Knowledge tests are undertaken online, all candidates are required to attend in person to the Town Hall or designated site to sit the test in a controlled environment on technology provided by the Council under examination conditions. There is also a requirement for candidates to provide proof of ID and the 'right to work' before being permitted to undertake the test

4. We welcome the provision that applicants must have held a full DVLA licence for at least one year for a new application (8.1). However, we are concerned that (8.2) 'Driving licences issued by EU/EEA States and Countries detailed in the Driving Licence (Exchangeable Licences) Orders are also permitted to count towards the one year's period qualification requirement for the grant of a hackney carriage/private hire driver's licence.'

8.2 Is in accordance with the current legislation therefore the authority is unable to depart from this.

Our concerns are reinforced by in (9.3) where the policy allows ‘an applicant who meets the licensing requirements by virtue of an acceptable non -UK driving licence must obtain a full UK driving licence within twelve months of the issue of the hackney carriage/private hire driver’s licence.’ Surely this contradicts *para 8.1* above which states the UK licence must be obtained, held for a year before application for the taxi licence, and in 9.1 which relates to the minimum age of 21?

The law permits an individual that holds a valid driving licence issued in their own country to be able to drive in the UK for at least one year but they will then be required to exchange their licence or take a UK driving test. If an individual holds an EU licence they are permitted to drive in the UK until the licence expires.

8.1 Refers to a full driving licence it does not specify that it has to be a UK licence.

9.1 Acknowledged therefore to improve clarity it’s proposed the following will be inserted to replace the existing text. ‘ *A licence will not be granted to anyone who is not over 21 years of age or held an appropriate driving licence issued for a period of 12 months immediately prior to the application*’.

5. 6.1 states that new ‘applicants who have lived in the UK for less than five years continuously, a certificate of good conduct from the appropriate Embassy is required’. We doubt the robustness and validity of such certificates as they may vary between embassies and could be just a ‘tick box’ exercise.

Noted, however this process follows best practice and has been in operation for many years now.

6. When considering the criminal record, patterns of behaviour, traffic offences etc of a driver (*11 and Appendix 1*), the prime concern should always be the safety of the passengers. Zero tolerance should be applied.

7. Where multiple offences have been reported (*Driving offences (Appendix 1 – 5)*) and there is a question on the driver’s fitness to drive, the safety of passengers should be the priority. It is not acceptable as stated in 5.6 that ‘In cases of seven penalty points or more on an applicant’s DVLA driving licence, an application will be referred to the Licensing Committee for decision’. This committee meets only 4 times a year. There should be no question of granting or continuing a licence in these circumstances. In *Appendix 1 – 6,7, 8, 9, 10, 11, 12, 13 and 14*, there should be a policy of zero tolerance in favour of the safety of passengers with little or no discretion or granting grace periods following serious offences.

The Licensing Sub-Committee which is made up of representatives from the Licensing Committee and would be the body to consider these matters and

can be called at any time during the year to address any specific case. This matter would not be considered by the Licensing Committee which is accepted only meets periodically.

The policy will be amended to reflect reference to the Licensing Sub Committee as opposed to the Licensing Committee

8. Passengers must be able to register complaints easily on the TWBC website in the section 'Taxis and Private Hire' rather than relying on the email address provided in this policy.

TWBC currently has an online complaints protocol that can be accessed by individuals if they wish to make complaints. TWBC is in the process of reviewing its website and officers will look to see if it can be made easier and clearer as to how individuals can raise any concerns/complaints by improved signposting.

9. *Section 29 Security/CCTV* seems remarkably weak since no provision is included about compliance with GDPR. This policy just says 'it is incumbent upon the operator to handle relevant data gathered in an appropriate and secure manner.' CCTV data would be used as evidence for the taxi driver, but there is no mention of the harm caused to passengers should this material be uploaded to social media without their permission or knowledge.

The responsibility for managing data and its use is the responsibility of the driver/operator in accordance with the terms of their registration with the Information Commissioners Office (ICO). Any breaches would be subject to review by the ICO. All operators of CCTV are bound by GDPR.

10. We are disappointed to see that random or regular testing of taxi meters has not been included in this policy to prevent fraud.

The meter testing forms part of the compliance test undertaken by the Council's independent nominated garages.

11. There appears to be no limit set on daily or weekly hours for drivers. Whilst setting limits must be flexible due to the nature of the work, operators must be required to monitor hours worked for the safety of passengers, other road users and the driver.

Regulation 18 of the Working Time Regulations was amended by the Working Time (Amendment) Regulation 2003 and limits a driver's working week to 48 hours, averaged over a 17 week period.

This only applies to drivers who are employed and working under a contract of employment and does not apply to self-employed drivers. It is therefore of limited application to the Hackney Carriage trade where the vast majority of

drivers are self-employed.

In addition to those that are employed they can opt out of the application of the regulations by agreeing in writing that they should not apply in accordance with Regulation 4.1.

12. Some councils have required BTEC Level 2 as mandatory qualification for drivers. Whilst it is not provided for in this policy, it should be an aspiration for future revisions as it will not only reassure the safety of passengers but also add to the town's reputation for quality services.

Additional driving standards are already addressed as part of 8.3 of the draft policy 'in addition to holding a valid driving licence, all new applicants will be required to successfully undertake a supplementary driving standard practical taxi test delivered by one of the Council's nominated providers'.

Finally, provision should be made in this policy for the safety of drivers and passengers while Covid-19 remains in circulation, which it may well do for at least part of the span of this policy. Any processes that have been agreed with taxi operators as 'best practice' to prevent the spread of the virus should be included in or attached to this policy, and made publicly available.

Officers will continue to keep this under review in accordance with current Government guidance which at present do not prescribe that PPE screens etc.. are mandatory. The trade have been provided with advice regarding this matter and are encouraged to review their own arrangements.

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