

# Licensing Committee

6 June 2017

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

Yes

## Hackney Carriage and Private Hire Licensing Policy 2017

<b>Final Decision-Maker</b>	Licensing Committee
<b>Portfolio Holder(s)</b>	Councillor Dr Ronen Basu
<b>Lead Director</b>	Paul Taylor, Director of Change & Communities
<b>Head of Service</b>	Gary Stevenson, Head of Environment & Street Scene
<b>Lead Officer/Report 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 and considers all representations and comments received during the public consultation period prior to the formal adoption of the updated policy.
2. Since the public consultation has concluded the remaining parts of sections 165 and 167 of the Equality Act 2010 have come into force on 6 April 2017. To enable the Authority to meet the required six month time frame (6 December 2017) for implementation Members are requested to delegate responsibility to officers to amend the adopted policy to reflect the recently enacted sections to ensure that we meet the required time frame.

### **This report relates to the following Five Year Plan Key Objectives:**

- A Confident Borough  
In the interests of public safety, the licensing procedure 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	6 June 2017

# Hackney Carriage and Private Hire Licensing Policy 2017

## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 That the Committee consider all representations and comments received during the consultation period and adopt the revised policy. This document sets out the authority's framework for the administration and enforcement of managing the provision of Hackney Carriage and Private Hire licensed drivers and vehicles.
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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. The hackney carriage and private hire industry within the Council's area is comprehensive and provides its population with a reasonable service.
- 2.3 The Council currently licenses approximately 74 Operators, 107 hackney carriages and 284 private hire vehicles. There are approximately 301 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. Attempts have been made to align the revised policy with our partners where feasible and at the same time to consider and incorporate revised guidance, best practice and the Law Commission recommendations.
- 2.5 The guidance does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance. However, 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.
- 2.6 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.
- 2.7 The content of the revised policy, appendix A has not changed significantly from our current policy other than attempts have been made to align the running order of the sections with the other partner sites where feasible.

- 2.8 Attached at Appendices B, C, D, E, F, are the responses for Members consideration, together with the officers response to each point raised, which has been drafted in consultation with legal services.
- 2.9 Attached at Appendix G is an outline of the required amendments to be implemented within a six month period in relation to enactment of the remaining sections 165 and 167 of The Equality Act 2010.
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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 legislation and guidance.
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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 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.
- 4.3 The proposed policy aims to improve upon the current policy that Tunbridge Wells Borough Council has in operation.
- 4.4 The preferred option is that Members agree to amend and review the current policy and delegate authority to officers to effect the amendments in relation to sections 165 and 167 of the Equality Act 2010.
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### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The Committee decided that the current policy should be updated therefore a 12 week consultation was undertaken in accordance with HM Governments' Code of Practice on consultation.

The Committee is required to consider the contents of the feedback prior to formal adoption of the proposed revised hackney carriage and private hire licensing policy.

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

- 6.1 If the Committee agree to implement a revised policy then this will come into force with immediate effect and will be available to view via the Council's website

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
<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>	Robin Harris, Senior Lawyer (Contentious) 17.05.17
<b>Finance</b> and other resources	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 form part of the administrative function.	Sharon Degiorgio Senior Licensing Officer 17.05.17
<b>Staffing establishment</b>	There are no staffing implications.	Sharon Degiorgio Senior Licensing Officer 17.05.17
<b>Risk management</b> and health & safety	<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</p>	Sharon Degiorgio Senior Licensing Officer 17.05.17

	<p>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>	
<p><b>Environment and sustainability</b></p>	<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>	<p>Sharon Degiorgio Senior Licensing Officer 17.05.17</p>
<p><b>Community safety</b></p>	<p>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 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>	<p>Community Safety Manager Terry Hughes 22.05.17</p>
<p><b>Health and wellbeing</b></p>	<p>No Implications</p>	<p>Sharon Degiorgio Senior Licensing Officer 17.05.17</p>
<p><b>Equalities</b></p>	<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> <p>i. Eliminate unlawful discrimination,</p>	<p>West Kent Equalities Officer 17.05.17</p>

	<p>harassment and victimisation and other conduct prohibited by the Equality Act 2010;</p> <p>ii. Advance equality of opportunity between people from different groups; and</p> <p>iii. Foster good relations between people from different groups.</p> <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>	
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## 8. REPORT APPENDICES

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

- Appendix A: Draft revised Hackney Carriage and Private Hire Licensing Policy consultation document attached and also available at: [http://www.tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0004/134797/20.12.16-Draft-TAXI-policy-2016-V4.pdf](http://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0004/134797/20.12.16-Draft-TAXI-policy-2016-V4.pdf)
  - Appendix B: - Response from Toni Conlon
  - Appendix C: - Response from Kent Police
  - Appendix D: - Response from Councillor Chris Woodward
  - Appendix E: - Response from RTW Town Forum – Transport Working Group
  - Appendix F: - Response to the Hackney Carriage Unmet Demand Survey from RTW Town Forum – Transport Working Group
  - Appendix G: - The Equality Act 2010 Implementation Compliance Process
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## 9. BACKGROUND PAPERS

TWBC Hackney Carriage and Private Hire Licensing Policy 2012

[http://www.tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0008/97991/Amended-Hackney-Carriage-Private-Hire-Licensing-Policy-2012.pdf](http://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0008/97991/Amended-Hackney-Carriage-Private-Hire-Licensing-Policy-2012.pdf)

Local Government Association (LGA) Taxi and PHV Licensing: Councillors' Handbook (England and Wales)

[http://www.local.gov.uk/publications/-/journal\\_content/56/10180/7111867/PUBLICATION](http://www.local.gov.uk/publications/-/journal_content/56/10180/7111867/PUBLICATION)