

Licensing Committee

8 September 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 2020-2025

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

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

Meeting	Date
Licensing Committee	8 September 2020

Hackney Carriage and Private Hire Licensing Policy 2020-25

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Officers are required to formally review the Hackney Carriage and Private Hire Policy every five years and as and when required within this timeframe to ensure it remains current and reflect developing legislation, best practice and guidance.
 - 1.2 That the Committee consider all representations and comments received during the consultation period and determine whether the points raised should be incorporated into the revised policy and adopted. 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. 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 received the Statutory Taxi and Private Hire Vehicle Standards in July 2020.

In anticipation of the publication of this document officers have already incorporated many of the new standards within this document.

2.9 The new National Standards 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.

2.10 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.

2.11 Appendices B and C set out the responses for Members consideration, together with the officers response to each point raised, which has been drafted in consultation with legal services.

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 the latest National Standards for Taxi and Private Hire Vehicle Passengers.

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.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 The Committee decided that the current policy should be updated and a 12 week consultation was undertaken.
- 5.2 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.

NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.3 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
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6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal 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) 14.08.2020
Finance 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 13.08.2020
Staffing establishment	There are no staffing implications.	Sharon Degiorgio Senior Licensing Officer 13.08.2020

Risk management 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 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>Sharon Degiorgio Senior Licensing Officer 13.08.2020</p>
Environment and sustainability	<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 13.08.2020</p>
Community safety	<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</p>
Health and wellbeing	No Implications	<p>Sharon Degiorgio Senior Licensing</p>

		Officer 13.08.2020
Equalities	<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"> i. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; ii. Advance equality of opportunity between people from different groups; and iii. Foster good relations between people from different groups. <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 6th 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>	West Kent Equalities Officer

7. 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/0003/336432/Draft_Hackney_Carriage_and_Private_Hire_Licensing_Policy_2020.pdf
- Appendix B: - Consultation responses – various
- Appendix C: - Consultation response from RTW Town Forum – Transport Working Group

8. BACKGROUND PAPERS

Tunbridge Wells Borough Council Hackney Carriage and Private Hire Licensing Policy 2017

Department for Transport - Statutory Taxi & Private Hire Vehicle Standards
<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

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