

Licensing Report

Ward(s) affected: All Wards

Report of Licensing Team Leader

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Update on the Taxi and Private Hire Licensing Policy Review

Executive Summary

This report seeks to update the Committee on the work undertaken to review the Taxi and Private Hire Licensing Policy.

Recommendation to Committee

That the Committee notes the work undertaken so far to review the Policy and updated timetable for review.

Reason(s) for Recommendation:

To ensure a transparent process for updating the Policy.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

1.1 The purpose of this report is to update the Committee on the work undertaken to review the Taxi and Private Hire Licensing Policy.

2. Strategic Priorities

2.1 The review of the Taxi and Private Hire Licensing Policy will contribute to our fundamental themes as follows:

- **Place making** – ensuring safe travel in the Borough through a well-regulated taxi service.

- **Innovation** – using new ways of working to improve efficiency.

3. Background

3.1 Taxi and Private Hire Vehicles are licensed by Local Authorities under powers arising from the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.

3.2 The current Taxi and Private Hire Licensing Policy 2015-2020 adopted on the 9 December 2015 introduced positive changes to protect public safety by introducing livery for taxis, door signs for private hire vehicles and the requirement for drivers to complete the BTEC Level 2 Certificate in the Introduction to the Role of the Professional Taxi and Private Hire Driver. The Policy was revised on 7 February 2018 to introduce a uniform 'convictions Policy' across Surrey, mandatory Safeguarding training for all licensed drivers, and a requirement for all hackney carriages to accept card payments.

3.3 On 27 November 2019 the Licensing Committee considered a report concerning the strategic direction for the Taxi and Private Hire Licensing Policy and recommended that Officers develop a Policy incorporating the following measures for consultation:

Measures to improve driver standards through:

- requiring drivers to sign up to the Disclosure and Barring Service update service and a check every 6 months
- adopting a robust previous convictions policy
- a code of conduct for drivers

Measures to improve vehicle standards through:

- requiring CCTV in licensed vehicles
- emissions standards for licensed vehicles
- a suitability test for vehicle proprietors

Measures to improve private hire operator standards through:

- Improved staff training and vetting
- Improved procedures for
 - vetting drivers/vehicles allocated bookings
 - advertising
 - sub-contracting
 - tariff display
 - pickup/drop off procedures
 - executive hires

3.4 Since November 2019, Officers have been working to update the Policy in line with the proposals above. Many of the proposed measures were based upon draft Guidance issued by the Secretary of State under section 177 of the Policing and Crime Act 2017. This draft guidance was consulted upon between February and April 2019, however the final version has not been published. Discussion

with representatives at the Department for Transport advise that National Standards for Taxi and Private Hire Vehicles will be issued shortly. As such, following discussion with the Lead Councillor, Officers consider it advisable to wait to see what standards emerge from the Department for Transport before finalising the draft Policy for consultation.

- 3.5 It is recognised that the current coronavirus pandemic has had a considerable effect on the country including the licensed trade many of whom will have seen a considerable reduction in work. Similarly, for the licensing service, a number of staff have been redeployed to assist with the Council's response and delivering priority functions during the pandemic, meaning that to date the expected time has not been spent on the Policy review.

4. Consultations

- 4.1 It is recognised that the current coronavirus pandemic may cause difficulties in consulting with the licensed trade and public.
- 4.2 As consultation will be critical to ensure any changes to the Taxi and Private Hire Licensing Policy are clear and transparent for licence holders and the travelling public, it is recommended to consult on any proposed changes later this year when the trade and public will be able to be more engaged in the process.
- 4.3 As such, it is recommended to present a draft Policy for Licensing Committee to consider for public consultation in September, dependant on the status of the Department for Transport guidance and impact of the coronavirus pandemic on both the Council and licensed trade.

5. Key Risks

- 5.1 There is no legal requirement to review the Taxi and Private Hire Licensing Policy at any particular time. The Policy was due for Review in December 2020 and under ordinary circumstances there may be a legitimate expectation that the Policy will be reviewed within the timescale stated, with a potential risk of challenge if the Policy is not reviewed.
- 5.2 However, as the Department for Transport has not yet published the guidance under section 177 of the Police and Crime Act 2017, there is a risk that the guidance may differ to the version consulted upon, meaning that a further review of the Policy would be required to reflect any changes to this Guidance.
- 5.3 Additionally in the current circumstances, as there are concerns about ensuring a suitable consultation process and as no one is prejudiced by delaying the review until later this year this appears the most sensible course of action.

6. Financial Implications

- 6.1 The Council keeps the fees and charges under review annually and aims to recover as much of the cost of regulating taxi and private hire licensing services

as we are legally able, through fees and charges paid by applicants and licence holders.

- 6.2 Any costs associated with preparing and consulting on this policy will be met from existing taxi and private hire licensing budgets. Any additional costs arising from implementing and enforcing this policy will, where possible, be met through changes to taxi and private hire licence fees and charges.
- 6.3 The previous policy review utilised an unmet demand survey, a company to conduct a survey with the citizens panel and sessions with the trade. It is envisaged that these measures will not be used for this review in order to keep costs down.
- 6.4 There are no additional financial implications from delaying the Review of the Policy, as a delay will reduce the risk of having to consult again on any differences to DfT guidance.

7. Legal Implications

- 7.1 There is no statutory requirement to have a taxi and private hire licensing policy; however, it is good practice to do so. A policy assists with consistent decision-making; however, each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.
- 7.2 There is no legal requirement to review the Taxi and Private Hire Licensing Policy at any particular time. The Policy was due for Review in December 2020 and under ordinary circumstances there may be a legitimate expectation that the Policy will be reviewed within the timescale stated. However, by reviewing a Policy when the Guidance from the Department for Transport has not been finalised, and reviewing at a time when the trade and public are less able to participate in the consultation process, the Council could also be at risk of challenge.
- 7.3 There is no prejudice to any person from delaying the review of the policy until a more appropriate time, therefore it is considered that the risk of a successful legal challenge is minimal.

8. Human Resource Implications

- 8.1 The finalisation of the review of the Taxi and Private Hire Policy will take considerable officer time, however can be managed from within the current licensing resource, although it is recognised that the work is taking place during the Future Guildford review and during the Council's response to the coronavirus pandemic which may affect further progress on the review.

9. Equality and Diversity Implications

- 9.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful

discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.

- 9.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 9.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty. The implications of changes to the policy will be assessed when the draft policy is formulated for consultation.
- 9.4 It is considered that reviewing the Taxi and Private Hire Policy at a time where many members of the public and trade are potentially vulnerable due to the coronavirus pandemic is not recommended as the Council wishes to ensure stakeholders are engaged in the process. Additionally, it may be that there are elements in the DfT guidance when this is published to promote equality which the Council will have to revise its policy again for.

10. Climate Change/Sustainability Implications

- 10.1 There are no climate change or sustainability implications to this report. The intended policy direction however does consider an emission standard for licensed vehicles in order to improve air quality.

11. Summary of Options

- 11.1 After considering the report, the Committee is asked to note the work in updating the Taxi and Private Hire Licensing Policy and concerns around approving consultation on a final draft at this time.
- 11.2 Consequently, the option for Committee to consider that the committee approve the delay in consulting on a draft policy until September, although potentially later, depending on publication of the national guidance and resource required to assist with the Council's response to the coronavirus pandemic.

12. Conclusion

- 12.1 The aim of Taxi and Private Hire Licensing is to protect the travelling public, and to ensure that the highest standards within the professional licensed taxi trade are maintained so that the public have confidence to use the service.
- 12.2 The Council's Policy is being reviewed and the Council will be required to have regard to any Statutory Guidance issued under s.177 of the Policing and Crime Act 2017 when considering any changes. As the guidance is currently in draft

form, it is recommended to await final publication before completing the Policy review.

- 12.3 Similarly consulting with the public and trade may not be as effective at this time due to the coronavirus pandemic, and additionally as staff have been redeployed to assist with the Council's response and delivering priority functions.

13. Background Papers

- 13.1 [Taxi and Private Hire Licensing Policy 2015-2020](#)
- 13.2 [Taxi and Private Hire Vehicle Licensing: Protecting Users. Consultation on Statutory Guidance for Licensing Authorities](#)
- 13.3 [Taxi and Private Hire Vehicle Licensing: Best Practice \(Department for Transport, 2010\)](#)
- 13.4 [Taxi and Private Hire Vehicle Licensing: Councillor Handbook \(Local Government Association, 2017\)](#)
- 13.5 [Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades \(Institute of Licensing, 2018\)](#)
- 13.6 [Minutes of Licensing Committee held 27 November 2019](#)

14. Appendices

There are no appendices to this report.

Please ensure the following service areas have signed off your report. Please complete this box and do not delete.

Service	Sign off date
<i>Finance / S.151 Officer</i>	<i>8 May 2020</i>
<i>Legal / Governance</i>	<i>24 April 2020</i>
<i>HR</i>	<i>24 April 2020</i>
<i>Equalities</i>	<i>24 April 2020</i>
<i>Lead Councillor</i>	<i>12 May 2020</i>
<i>CMT</i>	<i>12 May 2020</i>
<i>Committee Services</i>	<i>15 May 2020</i>