

Licensing Committee Report

Ward(s) affected: All

Report of the Strategic Director for Place

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Report Status: Open

Taxi and Private Hire Policy – Review

1. Executive Summary

1.1 This report seeks the views of the Licensing Committee on the strategic direction for the proposed review of the Taxi and Private Hire Licensing Policy in 2024.

2. Recommendation to Licensing Committee

2.1 That the Licensing Committee consider the proposals set out in the Department for Transport Best Practice Guidance (published November 2023) and recommends that the following areas of Best

Practice Guidance are incorporated within the Council's Taxi and Private Hire Policy to be consulted upon:

- Licensed Hackney Carriage and Private Hire Drivers
 - Training, Qualifications and Knowledge Testing
 - Restricted Private Hire Licences
- Licensed Hackney Carriage and Private Hire Vehicles
 - Vehicle Livery and Signage:
 - Vehicle Age Limits
 - Safety Rating
 - Vehicle Testing
 - Vehicle checks by drivers
 - Emergency Equipment
 - Quantity Restrictions
- Licensed Private Hire Operators
 - Employment and Health and Safety Law
 - Disability Awareness Training
 - Conditions to fulfil bookings
- Accessibility
- Local Transport Plans

3. Reason for Recommendation:

3.1 To improve safety within the licensed hackney carriage and private hire vehicle service operating in Surrey by ensuring the Council's

Licensing Policy reflects the latest guidance from the Department for Transport.

4. Exemption from Publication

4.1 This report is not exempt from publication.

5. Purpose of Report

5.1 The purpose of this report is to seek the Committee's views on the strategic direction for the proposed review of the Taxi and Private Hire Licensing Policy.

6. Strategic Priorities

6.1 The Council's Licensing function contributes to our fundamental themes as follows:

- **A more sustainable borough**

The licensing process sets standards for licence holders to meet via licensing policy considering the Council's climate emergency and aims to protect the environment so as to ensure the protection and promotion of the environment via the licensing process.

- **A more prosperous borough**

The licensing process supports the local economy by ensuring any business needing a licence has one and those licensed businesses

are aware of and compliant with licensing legislation and promoting the relevant licensing objectives; so as to ensure the safety and wellbeing of employees and the public in licensed establishments and vehicles.

- **A more inclusive borough**

The licensing process helps tackle inequality in communities by promoting a safe and inclusive licensed trade, ensuring customers with a disability are able to use licensed establishments and supporting the unemployed back into work through compliant and prosperous licensed businesses.

- **Decent and affordable homes**

The licensing process ensures a balance between those providing a service regulated by the Council such that they do not do so in a way which disturbs residents in their own homes, contributing positively to local residential communities.

- **A resilient and well-managed council**

The licensing process serves our residents, businesses, and visitors. There are distinct responsibilities on the Council in its role as the 'licensing authority' under many different areas of licensing. This is not just simply relating to the processing of applications, but also includes:

- setting the local framework through a statement of licensing policy;
- considering applications with a view to promoting the licensing objectives under the Licensing and Gambling Acts, or the public

protection and economic growth aspects of other licensing regimes;

- undertaking inspection and enforcement activities to ensure conditions of licences are being met, and to ensure that any operator whom requires a licence has one;
- maintaining the required statutory registers;
- ensuring members of the licensing committee are supported to make decisions on Council Policy or individual applications.

7. Background

7.1 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.

7.2 Despite the law commission review reporting in 2014, much needed legislative reform in the taxi and private hire sector has not occurred. Taxi Licensing legislation has been subject of minor changes under the Immigration Act 2016 where a duty has been placed upon Licensing Authorities to ensure that applicants for driver's and operator's licences have the 'right to work'; and the Deregulation Act 2015 where the default length of driver and operator licences (3 and 5 years respectively) was introduced, together with the ability for operators to 'sub-contract' bookings to operators licensed by other Authorities.

- 7.3 In September 2017 the government established a Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing with the remit to consider evidence relating to the adequacy of current taxi and private hire vehicle (PHV) licensing authority powers, as set out in legislation and guidance, and to make recommendations for actions to address any priority issues identified.
- 7.4 The TFG reported to the Government in July 2018 with 34 recommendations to reform the taxi sector. The Government responded to the TFG report in February 2019 and in July 2020 published Statutory Guidance which formed the basis of the previous Policy review.
- 7.5 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services. Additionally, Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 introduced further safeguards to help protect vulnerable passengers. The Council has implemented the recommendations within the Guidance and now following the publication of updated 'Best Practice' Guidance there are some recommendations which the Council should now be looking to implement to ensure that Guildford Borough Council maintains its high standards.

7.6 The current Taxi and Private Hire Policy adopted in April 2021 introduced positive changes to protect public safety by introducing:

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

- 7.7 This built upon measures achieved in the previous Policy review in 2015 which introduced a 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.
- 7.8 In March 2022, the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 was introduced requiring that if any licensing authority has certain road safety or safeguarding concerns about a driver licensed by another authority, they must provide relevant information to the authority that issued the licence. The Act also requires licensing authorities to input instances where the authority has refused, suspended, or revoked a taxi or PHV driver's licence because of certain safeguarding or road safety concerns into a central register. There is a further requirement for a licensing authority to check the register before deciding whether to grant or renew a driver licence, and if there is a relevant entry, the authority will be required to contact the recording authority to request the relevant information. The decision-making licensing authority is then required to have regard to the information provided when making their decision.

7.9 In June 2022, the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 came into force and is designed to ensure that all disabled people can access transport services, free from the fear of discriminatory treatment or being faced with additional charges. It provides specific rights and protections for 13.7 million disabled people across the country so that they can travel with the confidence that they will receive the assistance they require when accessing taxi and private hire vehicle services.

The Act conveys several key actions which Licensing Authorities will need to take:

- Lists of Wheelchair Accessible Vehicles (WAVs)

All licensing authorities now must maintain and publish a list of licenced taxis and PHVs they designate as being wheelchair accessible. This will identify the vehicles whose drivers are subject to the duties at section 165 of the Equality Act on providing assistance to wheelchair users and refraining from charging extra for this. Previously, whilst it was good practice to maintain a designated WAV list, it was not a legal requirement.

- Exemptions

Previously, drivers of designated WAVs may apply for an exemption certificate on medical grounds or where their physical condition makes it impossible or unreasonably difficult to perform the section 165 duties. As a result of the new Act, all taxi and PHV drivers may apply for an exemption certificate and notice on

medical grounds or where their physical condition prevents them from performing the mobility assistance duties at sections 164a and 165.

The Department for Transport recommends that Authorities have an appropriate and transparent policy in place for inviting applications and then issuing exemption certificates and notices, where the Authority is satisfied that it is appropriate to do so on medical or physical grounds. It is recommended that drivers provide evidence to support their application, preferably from an independent medical professional.

The Act also places new requirements for drivers and operators: The previous legislation required drivers of designated wheelchair accessible vehicles to accept the carriage of wheelchair users, provide them with reasonable mobility assistance, and refrain from charging them more than other passengers. From June 2022, all taxi and PHV drivers and operators – regardless of whether the vehicle is wheelchair accessible – will be subject to duties under the Equality Act.

- 7.10 Officers have kept the current policy under review and despite the introduction of new legislation in 2022 considered that the Council was already meeting the requirements, with the legislation intended to bring other authorities up to the same standard rather than impose new requirements on Guildford.

- 7.11 Officers now propose that the Committee considers the strategic direction to be taken when making revisions to our existing policy following the publication in November 2023 of updated 'Best Practice Guidance' issued by the Department for Transport setting recommendations for Licensing Authorities to consider.
- 7.12 The Department for Transport has issued Best Practice Guidance on taxi and private hire vehicle licensing since 2006 with a subsequent revision issued in 2010. The publication of new Guidance in 2023 reflects that clearly the sector has changed considerably since 2010.
- 7.13 The guidance is non statutory (unlike the Statutory Standards published in July 2020) but aims to assist Local Authorities that have responsibility for the regulation of this sector with their Policy and standards by setting out what the Department considers to be best practice.

The Guidance highlights the following areas which could be included in a subsequent Policy Review and Members are asked for their views and direction on the following matters and their inclusion in wider consultation:

7.14 Hackney Carriage and Private Hire Drivers

Guildford has already adopted a number of measures to promote standards for driver licence holders, including requiring an enhanced Disclosure and Barring Service (DBS) certificate (a criminal records check) which checks the barred lists (list of individuals barred from working with adults and/or children), with a robust Policy on previous convictions; a test of the applicant's knowledge, including an understanding of English; safeguarding awareness training; a BTEC qualification which includes equality awareness and use of the NR3 register (National register of drivers whose licences have been refused/revoked by an authority).

In addition, all drivers are required to subscribe to the DBS update service, and have any criminal history checked every 6 months. Drivers are required to 'self-report' any arrest, charges or conviction within 48 hours and the Council has adopted a previous convictions policy, based on the DfT guidance template, setting out the criteria to be considered by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person based upon any convictions they may hold.

Training, Qualifications and Knowledge Testing:

The updated Best Practice Guidance recommends Licensing Authorities move away from a formal vocational qualification (such as the BTEC or equivalent) currently required by Guildford, replaced by formal safeguarding and disability awareness training for all drivers.

If a formal vocational qualification requirement is to be removed, the Council should then consider the introduction of an English language proficiency assessment, both written and oral to ensure drivers have the required communication skills for the role. Language proficiency is currently deemed to be tested via delivery of the vocational qualification as candidates need sufficient language skills to complete this level 2 qualification.

The Guidance also suggest conflict resolution training as part of measures to ensure drivers have the necessary skills to stay safe. Again, this is already covered in the current vocational training requirement.

The Guidance also suggests the introduction of training/assessment of driving proficiency at every 3-year renewal rather than just at first application. This is likely to be an additional burden for the trade however is recommended under the guidance as it is particularly relevant that professional drivers have an appreciation of the effect of

additional distractions and pressures which can negatively influence their driving behaviours.

The principal concern raised by the trade currently is around the Council's Knowledge test:

For Private Hire Drivers, the updated Best Practice Guidance recommends removing topographical knowledge testing.

For Hackney Carriage Drivers, the Guidance recommends taxi drivers need a good working knowledge of the area and Council's should therefore require prospective taxi drivers to pass a test of local topographical knowledge, reflecting the complexity or otherwise of the local geography, as a pre-requisite to the first grant of a licence.

A review of the current knowledge test, both in terms of questions and method of delivery has not been possible due to the level of resourcing and demands placed upon the service. However, due to the demand and infrastructure constraints it is unlikely that a return to the previous officer administered 'paper' examination will be possible, however the views of the Committee are sought on knowledge testing.

Restricted Private Hire Licences:

Finally, if the Committee are minded to consider the retention of the vocational qualification, then consideration is requested for the creation of a 'restricted' Private Hire Driver Licence due to a shortage of drivers in the school transport sector. This is causing problems with children not being able to get to school and increasing prices. Drivers would only be able to drive for one nominated operator carrying out defined contract work. Other types of private hire work would not be permitted unless the driver gained a Hackney Carriage or full Private Hire Driver licence. Drivers would be required to be employed by the operator and the operator would be required to have a training programme approved by the Council and provide the driver with the required training for the role.

7.15 Licensed Vehicles

Guildford already has a number of measures to promote safety in licensed vehicles including a comprehensive testing regime, CCTV, emissions policies, a 'fit and proper test' for proprietors as well as a livery and signage policy.

Vehicle Livery and Signage:

The updated Guidance recommends Licensing Authorities differentiate between taxi and private hire vehicles. The Hackney Carriage livery policy whilst providing a clear distinction between hackney carriage and private hire vehicles has not been popular with drivers. Similarly, door signage on private hire vehicles is discouraged in the Guidance although again does help to provide a degree of differentiation. However, this is also unpopular with the trade.

Vehicle Age Limits

The current policy sets an upper age limit for vehicles of 5 years at first application and permits vehicles to be licensed until they are 10 years old. The Policy does allow for some discretion for vehicles in exceptional condition. The new Guidance recommends the removal of age limits and in favour of more targeted requirements to meet objectives on emissions, safety rating and increasing wheelchair accessible provision where this is low.

Safety Rating

Licensing authorities should consider the safety benefits of vehicles which have received a higher NCAP rating. The current Policy encourages drivers to choose cars with a 5* rating although does not require it. There are clear benefits to safety through requiring vehicles to be licensed with a higher NCAP rating, however this would also

potentially restrict vehicle supply. There would also be a period of adjustment required for exiting licence holders.

Vehicle Testing

Potential removal of age limits should be met with an increase in testing according to the Guidance. The 1976 Act allows a vehicle to be inspected up to 3 occasions per year, although confusingly the Guidance indicates an inspection of only once per year, presumably in addition to an MOT.

Due to the current failure rate of vehicles at the Woking Road Depot (approximately 25%) a testing regime of twice per year, in addition to relaxation of any age policy would seem a sensible position.

Vehicle checks by drivers

The Guidance introduces a recommendation that drivers should complete a daily walkaround roadworthiness check of their vehicles prior to transporting members of the public. This recommendation comes from the existing legal responsibility all drivers have to make sure their vehicle is safe, and the completion, retention and presentation of checks evidencing good due diligence; with further guidance that licensing authorities should consider whether those drivers that fail to do these checks remain 'fit and proper'.

Emergency Equipment

Surprisingly, the Best Practice Guidance is silent on the issue of first aid kits in licensed vehicles. We currently require first aid kits, as well as fire extinguishers, however the Guidance now sets out the position in the Highway Code that should a vehicle catch fire, the occupants should get out of the vehicle quickly and to a safe place and not to attempt to extinguish a fire.

However, these items are relatively inexpensive and can be of great use in an emergency situation.

Quantity Restrictions

Guildford has not limited hackney carriage numbers since 2011 although imposing a 'cap' is often mentioned by some members of the trade due to concerns about competition. However, to provide some context, after the Policy review in 2015 there were at one point over 200 licensed taxis. Currently there are 165. Imposing a limit should not prevent anyone licensed from retaining their licence and consequently a cap will not reduce the number of vehicles. Furthermore, the Guidance takes the position that Councils should not be imposing a limit and if one were to be introduced, this would involve additional Officer time and expenditure through an 'unmet

demand' survey the costs of which would be passed onto licence holders.

7.16 Private Hire Operators

The previous Policy Review introduced a number of new measures for operators around suitability, staff training and vetting and operator procedures.

Employment and Health and Safety Law:

The updated Guidance discusses compliance with employment law and health and safety legislation, although these are not within the role of the Licensing Authority to adjudicate upon, non-compliance may affect an operator's suitability.

Disability Awareness Training:

The updated Guidance does go into some detail about ensuring Operators and any customer-facing staff have received disability awareness training. The current policy already requires staff training on equalities however it is suggested to incorporate the wider new recommendation.

Conditions Requiring Bookings to be Fulfilled:

The Committee have previously received an update on the Uber and Sefton Case in September 2023 which potentially has contractual and VAT implications for Licensed Operators. The Court of Appeal has now overturned the earlier judgement from July 2023, which had held that in order to operate lawfully under the Local Government (Miscellaneous Provisions) Act 1976, operators had to contract with passengers to provide the journey the subject of the booking.

Therefore, following considerable concern and a Government consultation on the potential VAT effects of the earlier position, we are effectively back to where we were with respect to the position of contractual arrangements between operators and passengers.

In the Court of Appeal judgement, Lord Justice Lewison, upheld the appeal, saying:

"The circumstances in which a booking might be made are potentially very varied. The person who makes the booking may do so on behalf of someone else without incurring any contractual liability. Obvious examples are a restaurant arranging a vehicle for a diner who has finished their meal, a carer requesting a booking for a vulnerable person, a hospital arranging for a patient to be collected, a receptionist booking a car for a visiting client and so on. Moreover, a booking may

not necessarily specify any journey; or even be made for a journey at all. A vehicle may be booked simply to be on stand-by. It is thus plain (and indeed is now common ground) that the declaration made by the judge is inappropriate. It assumes that the booking is made by "the passenger", which is not necessarily the case, and it assumes that the contract is one "to provide the journey" which is also not necessarily the case. In addition, the declaration as made stated that the operator was required to contract in order to operate "lawfully". The implication from this (although not spelled out) is that if the operator did not enter into a contract, it would be committing a criminal offence, even though there is no statutory provision that creates such an offence."

The Licensing Authorities' role is to make sure drivers, vehicles and operators are safe. Part of that rationale of safety is to make sure that not only are drivers 'fit and proper', vehicles roadworthy and insured, but also that operators provide a service to customers when it is needed, i.e. a car shows up when a booking is accepted. The judgement however describes passenger safety being "ensured by the suitability of the vehicle and the fitness and competence of the driver". It continues that "the passenger is adequately protected if they know that, if anything goes wrong with the hire, they have contractual redress against the operator that accepted the booking."

It is obviously a theme of the judgement that the person who made the booking may or may not be the putative passenger and it is the

passenger who is to be protected; not anyone else. However, in cases where the person making the booking is the passenger, they need to know that if they have made a booking that a car is going to arrive at the appointed time and place. Having contractual redress does not help the immediate need for that operator to be able to provide the service which has been booked in the circumstances above.

It is naturally recognised that most operators will do their best to ensure a service is provided when it has been requested however the position in the judgement indicates it is for the licensing authority to attach a suitable condition to an operator licence if it is concerned about disappointing expectations if a driver fails to arrive. Arguably disappointing expectations is the least of a customer's worries if they are let down and it should be as given that if a vehicle is booked it will arrive, without the need for a condition. Resultingly from the judgement, in order to negate concerns about unfulfilled journeys it is therefore considered necessary to impose such a condition.

It is to be noted that the decision may be appealed further in which case it may be necessary to revert to the position of considering contractual arrangements depending on the outcome of any appeal.

7.17 Accessibility

A new feature of the updated Guidance states that all licensing authorities should develop and maintain an inclusive service plan (ISP), either as a standalone document or as an integral element of a wider strategy. The ISP should describe:

- the demand for accessible services in their area, from wheelchair users and non-wheelchair users, and from people with both visible and less-visible impairments, and an assessment of the extent to which that need is currently being met
- the authority's strategy for making transport more inclusive generally, and specifically in relation to taxi and private hire vehicle provision
- the steps that the authority will take to improve the inclusivity of the taxi and private hire vehicle services it supports, including timescales for their completion
- the courses or assessments authorities require applicants to undertake - these should be suitable for a range of participants e.g. including older drivers
- ISPs should be developed collaboratively with organisations representing the interests of disabled people and people with other protected characteristics. This should be based on accurate and up-to-date evidence of need and usage. To support the production and updating of an ISP, authorities should survey existing and potential disabled passengers at least every 5 years,

building an understanding of the extent to which the vehicles and services provided by taxi and private hire vehicle fleets adequately support the needs of all passengers and whether driver training needs are being met.

The Guidance also recommends Authorities mitigate accessibility barriers by ensuring that due regard is given to the Public Sector Equality Duty (PSED) when taking decisions concerning the provision of taxi and private hire vehicle services and supporting infrastructure, and that reasonable adjustments are made to remove barriers preventing disabled people from accessing taxi and private hire vehicle services.

The Guidance recommends Licensing authorities should also do the following:

- consult with disabled passengers regularly on their experience of using taxi and private hire vehicle services, in addition to consulting trade unions and associations representing those providing services, and ensure that their feedback informs service development
- incentivise the uptake of wheelchair accessible vehicles where mandating them would be inappropriate.
- consider specifying that wheelchair accessible vehicles should be capable of carrying wheelchairs larger than the reference size

- work with airports, station operators and other locations where large numbers of passengers use taxi and private hire vehicle services to ensure disabled passengers can always access and exit vehicles safely and easily
- exercise discretion on application of other vehicle requirements if they would prevent suitable wheelchair accessible vehicles from being brought into service where there is unmet demand
- ensure information is provided to licence holders regularly to ensure awareness of accessibility requirements, and encourage liaison between the trade and accessibility groups to encourage understanding
- provide information and support to customers to use licensed vehicles with confidence
- take robust enforcement actions where licence holders have not upheld accessibility requirements

Members are invited to provide a direction on their expectations in this important area considering the resources available.

7.18 Local Transport Plans

The Guidance also discussed Local Transport Plans (LTPs) and whilst transport planning is a function of Surrey County Council, taxi and private hire vehicle services have a valuable part to play in the

provision of local transport, and so licensing authorities are likely to have a role to play in delivering LTPs.

The key policy themes for such services could be availability and accessibility. LTPs can cover:

- quantity controls, if any, and plans for their review
- licensing conditions, with a view to safety but also to a good supply of taxi and private hire vehicle services
- how passengers can access services, such as the provision of taxi ranks and safe areas for pick-up and drop-off points
- vehicle suitability and availability for people with disabilities
- vehicle emission standards and the location and capacity of electric vehicle charging infrastructure to support taxis and private hire vehicles to contribute to air quality objectives
- encouragement of flexible services

Again, Members are invited to provide a direction on their expectations in this important area considering the resources available.

8. Consultation

8.1 Consultation is critical to ensure any changes to the Taxi and Private Hire Licensing Policy are clear and transparent for licence holders and the travelling public.

- 8.2 Once the Policy has been drafted and approved for consultation, full public consultation will take place with the results presented for consideration by the Committee.
- 8.3 In drafting the report, the Lead Councillors views have been sought who agrees with the topics outlined for inclusion in the draft Policy.
- 8.4 It is probably also important to emphasise that this report is intended to form a basis for the Policy direction of the Council, and for officers to develop a Policy which will be presented for consultation with the approval of the Committee.

9. Key Risks

- 9.1 It is important to ensure that the Council's Hackney Carriage and Private Hire Licensing Policy reflects the latest Guidance from the Department for Transport and also the needs of the Borough. An up to date Policy will also assist applicants/licence holders with understanding the Council's expectations and will lead to consistent decision making and reduce potential legal challenge to decisions.
- 9.2 However, in Guildford there has been a history of challenge from the trade around Policy requirements and although contentious items such as livery or in-vehicle CCTV have been implemented already,

Members are advised that a review of policy may reignite these concerns again, leading to potential challenge.

9.3 Members also must ensure they have regard to the Regulators Code in determining Policy requirements, which states that:

“Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.”

9.4 Similarly, Members are requested to consider the risk of ensuring the Licensing Service is adequately resourced to deliver their Policy expectations. Following the Taxi Policy Review in 2021 where a number of additional measures were introduced, the Licensing team resource was significantly reduced making it considerably difficult to implement expectations, which the service has not recovered from due to legacy difficulties with the model post Future Guildford.

10. Financial Implications

10.1 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.

- 10.2 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.
- 10.3 In terms of potential costs to the trade, it is envisaged that these can be considered in the report accompanying any draft Policy following the Committee considering their strategic direction.

11. Legal Implications

- 11.1 Statutory Guidance recommends all Licensing Authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a fit and proper person test, licence conditions and vehicle standards. When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated.

- 11.2 The updated Best Practice Guidance states that it is for licensing authorities to ensure that their licensing policy and requirements are proportionate, so that passengers can choose from a wide range of safe services. As indicated above, the primary function of the licensing regime is public safety; however, an unduly stringent regime on other issues may restrict the supply of taxi and private hire vehicle services by putting up the cost of operation, or otherwise restricting entry to the trade. Licensing authorities should recognise that too restrictive an approach can be counter-productive, restricting the licensed trade to such an extent that the public resort to the use of unlicensed, unvetted and uninsured drivers and vehicles.
- 11.3 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.
- 11.4 In relation to taxi and private hire licensing, there are specific powers contained in the Town Police Clauses Act 1847, Transport Act 1985 and Local Government (Miscellaneous Provisions) Act 1976. These allow the Council to specify the requirements that vehicles and drivers must meet in order to be licensed, and to refuse a licence to drivers if we are not satisfied that the drivers are fit and proper persons to hold a licence. They also allow conditions to be attached to licences.

11.5 Licensing Authorities are expected to follow the recommendations of the updated Best Practice Guidance, however may depart from it with justification in local circumstances.

12. Human Resource Implications

12.1 The review of the Taxi and Private Hire Policy will take considerable officer time, however can be managed from within the current licensing resource.

13. Equality and Diversity Implications

13.1 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.

13.2 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.

13.3 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 equality duty. The implications of changes to the policy will be assessed when the draft policy is formulated for consultation.

13.4 The updated Guidance is considerably improved when considering accessibility and will be incorporated into a Policy which improves safety and standards in the taxi and private hire trades and will resultingly improve access to the service for customers from all groups.

14. Climate Change/Sustainability Implications

14.1 The Council's current Taxi and Private Hire Licensing Policy sets out a vehicle emissions criteria in order to help improve air quality in the Borough. There are no changes to this position.

15. Summary of Options

15.1 The report is presented for Members of the Licensing Committee to discuss the updated Best Practice Guidance and potential changes to the Council's Hackney Carriage and Private Hire Licensing Policy, which

Officers will incorporate into a revised Policy document for consultation.

16. Conclusion

16.1 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.

16.2 The Council's Policy is due for review following an update to the Best Practice Guidance and Members are invited to consider the Guidance when formulating the strategic direction for the Policy review.

17. Background Papers

[Town Police Clauses Act 1847](#)

[Local Government \(Miscellaneous Provisions\) Act 1976](#)

[Department for Transport Taxi Licensing Best Practice Guidance \(2023\)](#)

[Department for Transport Statutory Taxi and Private Hire Standards \(2020\)](#)

[Local Government Association Councillor Handbook: Taxi and PHV Licensing \(2021\)](#)

18. 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.

<i>Service</i>	<i>Sign off by and/or date</i>
<i>Finance / S.151 Officer</i>	<i>12/09</i>
<i>Legal</i>	<i>12/09</i>
<i>HR</i>	<i>12/09</i>
<i>Equalities</i>	<i>12/09</i>
<i>Lead Councillor</i>	<i>12/09</i>
<i>CMB - Date</i>	<i>12/09</i>