

Title of Report:	Hackney Carriage and Private Hire Policy
Meeting of:	Licensing Committee
Date:	Monday 19 th November 2018
Is this an Executive Decision:	NO
Is this a Key Decision:	NO
Is the Report Confidential:	NO
If so, please state relevant paragraph from Schedule 12A LGA 1972:	[]

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **Angela Wakefield**

Date Signature

Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Licensing Committee

Date: Monday 19th November 2018

REPORT TITLE: Hackney Carriage and Private Hire Policy Review and Consultation

PORTFOLIO: Enforcement Services

HEAD OF SERVICE: Mark Rizk

CONTACT OFFICER: Louise Kemplay Ext. No. x1343

WARD(S) AFFECTED: All

1. Purpose of the Report

- 1.1. We are committed to periodically reviewing the content of the Hackney Carriage and Private Hire Policy to ensure that it is fit for purpose
- 1.2. The last review took place in 2015 and it was due to be reviewed during 2018.
- 1.3. The purpose of this report is to highlight the proposed amendments, the majority of which were in response to requests raised by the Trade and to seek approval following the conclusion of a consultation that concluded on the 18th October 2018.

2. Executive Summary

- 2.1. The Licensing Team commenced a review of the Hackney Carriage and Private Hire Policy in 2018.
- 2.2. A number of areas were highlighted that required consideration for amendment.
- 2.3. The headlines of the proposed changes are as follows:

- 2.3.1 Change the Policy to require the Certificate of Compliance to be conducted on an annual basis and not six monthly.
- 2.3.2 For all vehicle inspections, including those currently undertaken by Licensing Officers, to be done by the Appointed Testing Stations
- 2.3.3 To increase the age limitations in respect of licensed vehicles to ten years for Private Hire and fifteen years for Hackney Carriage vehicles
- 2.3.4 To amend the Policy to enable applicants to visit any GP's practice and not just the applicant's own or another at that surgery.
- 2.3.5 That door panels and plates on licensed vehicles are optional and not a compulsory requirement with the exception of Plate Exemption cases.
- 2.3.6 In the event that a hire vehicle is used, the licensed plate is granted on a yearly basis and not individually each time a vehicle is hired.
- 2.3.7 To amend the Policy to include the exclusion of prohibiting the use of electronic cigarettes and 'vapes' inside a licensed vehicle
- 2.3.8 To introduce a pro rate fee for vehicles with less than a year to run. It has been previously deemed that the work to produce the licence is the same as for a 12 month licence
- 2.3.9 To adopt the principles of the Guidance issued by the Institute of Licensing on determining the suitability of applicants and licensees within the Hackney Carriage and Private Hire Trades
- 2.3.10 To extend the 14 day validity of the test pass certificate
- 2.3.11 To extend the existing knowledge test to include an oral test.

3. Background

- 3.1. The Hackney Carriage and Private Hire Policy was first introduced in 2008. Since then, the Policy has been regularly reviewed. The Policy brings together all matters relating to the Private Hire and Hackney Carriage trade in East Staffordshire which the Licensing and Enforcement Teams follow.
- 3.2. The Licensing and Enforcement Teams use two main statutes to regulate the hackney carriage drivers and proprietors and operators along with Best Practice issued by the Department for Transport.
 - 3.2.1 Town Police Clauses Act 1847
 - 3.2.2 Local Government (Miscellaneous Provisions) Act 1976
- 3.3 The aim of the policy is to provide a transparent, fair, consistent and

proportionate process. The revised Hackney Carriage and Private Hire Policy will continue to achieve this by having in place a published policy, which lays out a set of principles which can be applied.

- 3.4 The Licensing Committee will be required to consider the draft Policy and make appropriate recommendation to Council on adoption.
- 3.5 The Licensing Committee will also be asked at a later date to consider and agree revised fees and charges for Hackney Carriages and Private Hire Drivers and Operators.

4. Contribution to Corporate Priorities

- 4.1. The issues raised in the report impact on the following Council's objective – Protecting and Strengthening Communities. Having a clear Hackney Carriage and Private Hire Policy in place will protect those that are vulnerable and ensure businesses and those that access our services are aware of what is expected by the authority.

5. Report

- 5.1. The Hackney Carriage and Private Hire Policy is due for a review and update during 2018. The policy brings together all matters relating to the private hire and hackney carriage trade in East Staffordshire which the Licensing and Enforcement Teams follow.
- 5.2. Currently the Authority licence: 52 Private Hire Operators, 179 Hackney Carriage Vehicles, 27 Hackney Carriage Drivers, 212 Private Hire Drivers and 443 Combined Private Hire and Hackney Carriage Drivers.
- 5.3. It should be noted that once the revised policy has been agreed, this will be followed by a review of the Council's Licensing fees and charges.
- 5.4. Licensing Officers have conducted a review of the policy and proposed changes. A consultation exercise has been conducted which commenced on the 20th September 2018 and concluded on the 18th October 2018. The consultees included the licensed 'taxi' trade within the Borough of East Staffordshire and extended to disability groups, Vehicle Hire Companies, Medical Practitioners, Testing Stations, Police, the Fire and Rescue Service and Members. The proposed considerations are as follows:

5.5. Change to the frequency of Certificate of Compliance tests

The Council is permitted by law to issue a certificate of compliance confirming that a vehicle has reached the standard required to pass an MOT test plus additional requirements of the Council concerning safety, comfort and the aesthetics of the vehicle.

The compliance certificate only relates to a vehicle for a maximum period of 12 months, provided that the vehicle is licensed as a hackney carriage or private hire vehicle during that period. The Council reserves the right to

request that the compliance test be completed at any time at the proprietor's expense.

Representatives from the Trade have proposed that the Certificate of Compliance requirement is reviewed and amended to an annual process and not on six monthly.

5.6. Vehicle Inspections

In order to maintain and improve the standards and conditions of the licensed vehicle, the Licensing Team carry out a vehicle inspection at the time it is initially licensed and upon the renewal of the licence on an annual basis.

The inspection is conducted by a Licensing Officer to ensure that it meets the Council's specification and that it is not damaged and is clean and tidy.

An appointment is made by the proprietor with the Licensing Office and a checklist of requirements completed.

Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 states that an authorised officer of the Council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council, or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney carriage or private hire vehicle or as to the accuracy of its taximeter, he may, by notice, in writing, require the proprietor of the hackney carriage or private hire vehicle to make it or its taximeter available for further inspection and testing at such a reasonable time and place as may be specified in the notice and suspend the vehicle licence until as an authorised officer or constable is so satisfied.

The Trade have proposed the Policy is amended so that the inspections which are currently conducted by the Licensing Officers are undertaken by the Testing Stations to save time.

The vehicle will still need to be viewed by the Licensing Officer and an appointment arranged. In this context no fee change is anticipated.

5.7. The revision of the age limits in respect to all vehicles

The Policy states that when granting and renewing vehicle licences and providing all requirements are met, the Council will issue a twelve month licence for vehicles under seven years old for a private hire vehicle and non-wheelchair accessible hackney carriages and ten years old for a purpose built

hackney carriage, providing it has passed a Council compliance test at an appointed test station.

The Council will issue a licence, valid until the day before the vehicle is seven years old for a Private Hire vehicle and non-wheelchair accessible hackney carriages and ten years old for a purpose built hackney carriage.

Private hire and non-wheelchair accessible hackney carriage vehicles over three years of age will be issued with an annual licence but are required to be compliance tested after six months of the licence being issued.

Representatives from the Trade have proposed that the age limits of all vehicles are increased to ten years for private hire vehicles and fifteen years for hackney carriage vehicles.

The extension of the age of the vehicle is not anticipated to change the level of fees charged.

5.8. Change to allow medicals to be conducted by any GP

The Council adopted the Group 1 medical standards for fitness to drive hackney carriages and private hire vehicles in accordance with the DVLA and Department for Transport best practice guidance. The Policy currently states that all medicals for applications for a hackney carriage and private hire driver's licence must be carried out by the applicant's own GP or another doctor in the same practice.

The Trade are reporting to the Licensing Team, delays of three months in obtaining appointments with their own GP or another doctor in the same practice and have proposed that the existing Policy is amended to enable them to visit any GP.

This is a proposal to help the trade get the appropriate medical and as such makes no difference to the level of fee charged.

5.9. Vehicle plates and door panels to be optional

Currently vehicle proprietors are allowed to apply to the licensing team for a plate and panel exemption, for their vehicle. Plate and panel exemptions are requested by vehicle proprietors who have acquired contracts with businesses. Those businesses require a vehicle and a chauffeur without livery on the vehicle. An exemption can be granted subject to evidence of the contract being provided, and can only be applied whilst the driver is undertaking the contract work. The plates and panels must be kept in the boot of the vehicle at all times, and displayed when the vehicle is not undertaking contract work.

The current Policy states that the Council requires hackney carriages and private hire vehicles to clearly indicate to the public that they are licensed vehicles. Hackney carriages and private hire vehicles must be clearly distinguishable to allow the public to identify them from other vehicles and

each other. The Council accepts that clear signage and door panels achieve this.

The Council has set standards on the acceptable type of signage for hackney carriages and private hire vehicles; they include:

- The permitted position of licence plates
- Colours to be used for licence plates
- Permitted positioning of door panels for private hire vehicles
- Permitted positioning of door panels for hackney carriage vehicles
- Requirements for internal signage such as display of tariff in hackney carriage vehicles and no smoking signage

Hackney carriage and private hire proprietors must use the design of door panels provided by the Council. The acceptable size for the door panels are 35cm by 25cm. A template will be provided to all proprietors on submission of an application for a vehicle licence. The company name on the door panels must be exactly the same as the name on the operator's licence. The door panels must be displayed at all times. The only exemption is when the vehicle is parked outside the address to which the vehicle is licensed or there is plate/panel exemption. Door panels are subject to approval being received from Licensing Officers.

In the event that this is granted the fees will need to be reviewed to reflect this. Licence plates are currently acquired in batch at minimal cost with each plate being made up within the time it takes to process each new vehicle application. There are currently 287 private hire vehicles and 179 hackney carriage vehicles requiring a vehicle licence each year at £164 of which some 95% are renewals.

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5.10. An Annual licence plate for hire vehicles.

The proprietor of a vehicle can only apply to licence a vehicle from a hire company if their vehicle is not in a roadworthy condition and is suspended or the vehicle is going into a garage for repair.

Representatives from the Trade have proposed that when a hire company vehicle is used, a licensed vehicle plate is granted on an annual basis instead of an individual basis.

Some 80 hire company vehicles are licensed each year under the current system at a cost of £164.

5.11. Exclusion of electronic cigarettes or ‘vapes’ from being used inside a licensed vehicle

The Health Act 2006 requires all vehicles used as public vehicles to be smoke free at all times which includes when they do not have a passenger. The purpose of this for the passenger to know absolutely that they will be able to remain free from the risk of second hand smoke exposure.

The suggested wording is as follows: “the licence holder shall not smoke tobacco or e-cigarettes, including vapes and heat-not-burn devices, at any time in the vehicle.”

5.12. Adoption of the Guidance issued by the Institute of Licensing on determining the suitability of applicants and licensees in the hackney carriage and private hire trades

In April 2018, the Institute of Licensing produced guidance following widespread consultation and work in partnership with the Local Government Association, Lawyers in Local Government and the National Association of Licensing and Enforcement Officers.

The Guidance states that the document intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee holder and its relevance to their ‘fitness and propriety’ or ‘character’. Appendix 3 refers

5.13. Extension of the current fourteen day validity of the test pass certificate

Currently, before any application for a licence can be accepted, the vehicle which is intended to be licensed, has to meet all aspects of the Council’s vehicle specifications.

This is achieved by making an appointment for a Licensing inspection with the Licensing Team and also by presenting the vehicle to one of the Council's appointed testing stations where the vehicle is subjected to the licensing authority's compliance test.

All vehicles must pass this test and be awarded a compliance test pass certificate which is valid for fourteen days. In the event a vehicle is not licensed during that time, the vehicle must be presented for a further test and a new compliance certificated obtained.

Representatives from the Trade have proposed that the fourteen day validity of the test pass certificate is extended, for example, for a period of one calendar month.

5.14 Extension of the current knowledge test to include an oral test

The Council's knowledge test is for new driver applicants and existing drivers where directed by the General Licensing Sub-Committee. An applicant will undertake a test including a written test in respect of the conditions of the licence applied for, a test on the Highway Code, training on Disability Awareness and Safeguarding, a test on arithmetic and finally, writing out a written receipt for a customer.

It is proposed that the Council would develop the knowledge test for drivers to undertake an oral test in addition to the written test. This would require the payment of an additional fee either to an external body directly by the driver or the equivalent to the Council were they to facilitate the test. If the latter were adopted, the work required will be assessed and the fee for the knowledge test would increase from its current level at £41.

5.15 Wording of the Policy to be amended regarding the text messaging service

The existing Policy states that it is the vehicle proprietor's responsibility to ensure that continuous cover of insurance and compliance test certificates are provided to the Licensing Office. One telephone reminder will be made to the proprietors on the working day prior to the document expiring, but this is just a courtesy service and no further calls will be made.

The Licensing Team are continually reviewing their practices to ensure that they provide an efficient and cost effective service. A text messaging service has recently been introduced and it is proposed that the wording on the Policy is amended to:

"Text reminders will be sent from the Licensing Office before the document expires. This is just a courtesy service. It is the proprietor's responsibility to ensure that the documents are submitted by email or in person by prior appointment."

5.16 Wording of the Policy to be amended regarding lost property

Appendix F of the Conditions of Private Hire Driver's Licence (Local Government (Miscellaneous Provisions) Act 1976) states:

"3 Lost Property. At the end of every journey, the driver shall carefully search the vehicle for any property, which may have been accidentally left in the vehicle. If the driver finds it or is handed by any other person carried in the vehicle, property that is left in the vehicle, he/she shall report the particulars of the property to the operator. If the property is not claimed within 48 hours of being reported, the driver shall take the property to the nearest police station and obtain a receipt for it."

The Council have been advised that from the 1st October 2018, lost property reporting through Staffordshire Police stopped. This is a national change affecting all police forces.

Staffordshire Police have issued advice stating that most found property does not need to be passed to the Police and that items can be handed to the premises owner or public transport operator where they were found.

There are certain items that members of the public are not allowed to retain and claim under any circumstances. These include: drugs, firearms, weapons, ammunition, non UK passports, high value items, laptops and cameras, mobile phones, unidentifiable substances or other items that may pose a danger or harm to others.

In the event that any items found are not listed above it is the responsibility of the finder to make reasonable efforts to trace the owner.

5.17 Amendment of Appendix AA of existing Policy: Definition Of "Exceptional Vehicle" for Private Hire Vehicles to include Hackney Carriage Saloon Vehicles

1. The term "exceptional vehicle" is used to describe vehicles which are over the age limit set by the Council, but that can continue to be licensed because of their condition. The status of exceptional vehicle only applies to vehicles that carry out executive and chauffeuring contract work. This only applies to Private Hire vehicles.
2. Any Council, which imposes an age limit on its vehicles, must be prepared to consider applications from vehicles that are in exceptional condition.
3. A vehicle of exceptional condition is one where the components i.e. mechanical, body, panels, paint and trim are in exceptional condition with regards to the age of the vehicle. It is essential that the image of the exceptional older vehicle uphold the standards set by a much younger

vehicle. These vehicles will be required to have a certificate of compliance every 6 months.

4. The current age limits are 7 years for a Private Hire vehicle, 7 for a Hackney Saloon vehicle and 10 for a Hackney Carriage vehicle.
5. Representatives from the Trade have proposed that the Policy is amended to extend the definition of “Exceptional Vehicles” to include Hackney Carriage Saloons. The key items to be considered when determining whether or not a vehicle meets the standard expected of vehicles in exceptional vehicles would remain the same.

Financial Considerations

This section has been approved by the following member of Financial Management Unit Anya Murray

- 6.1. The council is unable to recover the total cost of delivering its licensing service as it can only charge in accordance with statutory requirements. Each licence is different but for instance, the fee for a vehicle and operator's licence 'may be sufficient in the aggregate to cover in whole or in part-
 - (a) The reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or reviewed;
 - (b) The reasonable cost of providing hackney carriage stands; and
 - (c) Any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles
- 5.2 The report outlines where there is expected to be additional/reduction in work involved if the proposals being consulted upon are agreed.
- 5.3 These will then be incorporated into the review of licensing fees and charges which is anticipated will take place January to March 2019 for implementation from 1 April 2019. This will consider all changes to policies which impact on fees and can be charged for to recover costs in accordance with the relevant legislation.

Risk Assessment and Management

- 5.4 The main risks to this report and the Council achieving its objectives are as follows.
- 5.5 Positive (Opportunities/Benefits):

5.5.1 Council will have an adopted policy in place to advise applicants, officers of the Council and Licensing Committee when implementing the provisions of the Hackney Carriage and Private Hire Policy.

5.5.2 Ensure consistency of licensing function by the Council in the exercise of its duties.

5.6 Negative (Threats)

5.6.1 Failure to review and adopt the Policy in a timely manner exposes the Council to the risk of challenge.

5.6.2 The fees currently charged needs to be reviewed following this report, to ensure that the reasonable costs to the Council are recovered.

5.7 The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

Legal Considerations

5.8 There are no significant legal issues arising from this Report. However should operational issues arise, they shall be dealt with on a case by case basis and if and when necessary, minor amendments shall be incorporated into timely reviews of the document, as indeed shall be the case for legislation and good practice guidance.

Equality and Health

5.9 **Equality impacts:** The subject of this Report is a policy, strategy, function or service that is being revised. An equality impact assessment is not required.

5.10 **Health impacts:** The outcome of the health screening question does not require a full Health Impact Assessment to be completed. An equality and health impact assessment is not required.

Human Rights

5.11 There are no Human Rights issues arising from this Report. However the Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principles of proportionality i.e. is the decision/ action proportionate to what it wishes to achieve.

Sustainability (including climate change & change adaptation measures)

5.12 There are no sustainability issues arising from this Report.

Recommendation(s)

5.13 It is recommended that the draft revised Policy, be presented to the Licensing Committee, to approve the considerations made 5.5 to 5.17.

Appendices

- 5.14 Appendix 1: Copy of current Hackney Carriage and Private Hire Policy
- 5.15 Appendix 2: Matrix of changes
- 5.16 Appendix 3: Responses to the Consultation
- 5.17 Appendix 4: Copy of Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades. Produced in April 2018 by the Institute of Licensing in partnership with Lawyers in Local Government, NALEO and the Local Government Association