

## Bath & North East Somerset Council

MEETING:	<b>Cabinet</b>	
MEETING DATE:	<b>18 December 2018</b>	<b>E3099</b>
TITLE:	<b>Review of the Council's Hackney Carriage and Private Hire Licensing Policy and associated conditions</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> <b>Appendix A- Proposed Hackney Carriage and Private Hire Licensing Policy</b> <b>Appendix B- Proposed Private Hire driver conditions and Hackney Carriage driver byelaws</b> <b>Appendix C- Department for Transport (DfT) statutory guidance 'Access for wheelchair users to taxis and private hire vehicles'</b>		

### 1 THE ISSUE

- 1.1 This report seeks to update and amend the policy and general conditions for hackney carriage and private hire drivers, hackney carriage vehicles, private hire vehicles and private hire operators' licences.
- 1.2 As part of the policy review it is proposed to adopt Section 165-167 of the Equality Act 2010 and maintain a list of designated vehicles which are appropriate for wheel chair access within the licensed vehicle fleet.

### 2 RECOMMENDATION

Cabinet is asked to:

- 2.1 Note the responses to the public consultation and the officer recommendations
- 2.2 Adopt the revised hackney carriage and private hire policy following endorsement by the Licensing Committee (Appendix A)
- 2.3 Adopt Section 165-167 of the Equality Act 2010 following endorsement by the Licensing Committee
- 2.4 Note the amended private hire driver conditions and hackney carriage driver byelaws following amendments proposed by the Licensing Committee (Appendix B)
- 2.5 Note the remaining conditions adopted by the Licensing Committee at the meeting on 17 October 2018

### **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 The policy and conditions review has been carried out by the licensing authority, supported by Legal Services. Costs of officer time are met through full cost recovery by the collection of taxi licensing fees.
- 3.2 Any additional costs of maintaining a list of designated vehicles are not considered to be significant and will be met through full cost recovery by the collection of taxi licensing fees.
- 3.3 Costs for driver Child Sexual Exploitation awareness training will be minimised through the delivery of an in-house programme and met through the recovery of training fees.

### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 The Town Police Clauses Act 1847 (as amended) and the Local Government (Miscellaneous Provisions) Act 1976, give local authorities powers in relation to placing conditions on licences. Both Acts also, provide provision for any person aggrieved by any conditions attached to a licence the right of appeal to the courts.
- 4.2 On 13 November 2013 the Cabinet adopted a policy relating to hackney carriage and private hire licensing standards and on 7 January 2014 the Licensing Committee adopted revised conditions of licence to be attached to the standard grant of private hire/hackney carriage drivers, proprietors and operators licenses.
- 4.3 It is now timely for the policy and conditions to be updated to ensure that they remain up to date and fit for purpose. This is in light of the forthcoming Clean Air Zone proposals for Bath, the need to ensure that licensed drivers are aware of issues relating to Child Sexual Exploitation and the need to further promote public safety by ensuring that all new drivers have the necessary English speaking skills to deal with an emergency situation.
- 4.4 On 7<sup>th</sup> February 2017 the Department for Transport (DfT) announced their intention to commence Sections 165 and 167 of the Equality Act 2010 in so far as they were not already in force and made the Equality Act 2010 (Commencement No. 12) Order 2017 which subsequently took effect on 6<sup>th</sup> April 2017.
- 4.5 As a result of this legislative change, drivers of designated wheelchair accessible taxi and private hire vehicles are now legally obliged to:
  - Carry the passenger while in the wheelchair
  - Not to make any additional charge for doing so
  - If the passenger chooses to sit in a passenger seat, to carry the wheelchair
  - To take such steps as are necessary to ensure that the passenger is carried in reasonable comfort
  - To give the passenger such mobility assistance as is reasonably required.

- 4.6 This order applies in England, Wales and Scotland, applies to both taxis and private hire vehicles and affects vehicles that are designated as wheelchair accessible.
- 4.7 The legislation only applies in areas where the licensing authority has decided to maintain a list of designated vehicles under Section 167 of the Equality Act 2010, and where the driver is driving a vehicle included on the list of designated vehicles maintained by the licensing authority. Officers are recommending that the council decides to maintain a list of designated vehicles under Section 167.
- 4.8 DfT has published guidance on the accessibility requirements that licensing authorities should apply and this can be found at Appendix C.
- 4.9 The Licensing Committee considered the revised policy and conditions on 17 October 2018 and required further consultation with the Council's Equalities Officer which has now been completed and will be considered later in this report.

## **5 THE REPORT**

- 5.1 The aim of the policy and conditions is to ensure, as far as reasonably practicable, the safety and comfort of members of the public travelling in licensed private hire vehicles and hackney carriages in the area of Bath & North East Somerset Council.
- 5.2 The policy and conditions aim to further enhance the reliability of the existing service provided and the overall standards of vehicles and drivers licensed by the Council whilst not being prohibitive to any person seeking to obtain a private hire/hackney carriage driver, proprietor or operator licence.
- 5.3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that the functions of imposing any condition, limitation or other restriction on hackney carriage and private hire licences and determining the terms under which any such licence is subject are not Cabinet functions. They are therefore Council functions and the Council has delegated its authority in relation to licensing to the Licensing Committee.
- 5.4 This review of the Hackney Carriage and Private Hire policy and conditions has several significant changes which are outlined below:
- 5.5 Compliance with Bath's Clean Air Plan:**
- 5.6 The Council has been directed to reduce levels of nitrogen dioxide to within acceptable limits in the shortest time possible and by 2021 at the latest. In the Strategic Outline Business Case for the Clean Air Plan, published in March 2018, 3 possible options were identified for a Clean Air Zone, which technical assessment has determined is necessary to deliver the necessary reductions in the time possible. All of these options require taxi and private hire vehicles to be compliant with the Government's Clean Air Framework, i.e. Euro 4 standard or better for petrol vehicles and Euro 6 standard or better for diesel vehicles.
- 5.7 Engagement with the taxi trade has been ongoing since April 2018 over these options and it is proposed in the revised policy that should a Clean Air Zone be introduced, all licensed vehicles will be compliant with the requirements of such a zone. Feedback from the consultation suggests concessions to mitigate the

impact of such a change and this is being considered further in the Outline Business Case for the Clean Air Zone which was published in October 2018.

#### **5.8 The need for awareness training on Child Sexual Exploitation:**

5.9 The Council has a duty to promote public safety and there is evidence to show that across the UK, drivers of taxis are often (unwittingly) being used to transport boys and girls between hotels, pubs and other places where they are being sexually exploited. Taxi drivers are in a unique position to notice when all is not right with young passengers, and to pass concerns onto the Police. A DfT national survey undertaken in 2017 demonstrated that 58% of licensing authorities now require both hackney carriage and private hire drivers to undergo some form of awareness training.

5.10 It is therefore proposed to introduce mandatory training for every driver which will be a necessary requirement of the licence renewal. Having considered feedback from the trade and other local authorities, it is recommended that an in-house training course is favoured both in terms of minimising costs to the drivers and providing locally focussed training.

#### **5.11 The need to ensure that all drivers have the necessary English speaking skills to promote public safety:**

5.12 Taxi drivers have a very responsible role in ensuring the public safety of their passengers and it is important to ensure that they have the necessary communication skills to be able to do this successfully. Consultation with 18 other licensing authorities has determined that 10 of these have some form of English Speaking test for new applicants. It is proposed to introduce a mandatory requirement of the licence application that applicants undergo a test approved by the Council. For those applicants who are not successful, the Council is exploring options for support for re-taking the test with local educational providers, such as Bath College.

5.13 A public consultation on the revised policy and conditions was carried out from 16 July 2018-14 September 2018 (8 weeks). Every driver licenced by the Council was invited to a launch event on 16 July 2018 which was followed up by copies of the proposed policy and conditions being sent to every driver and operator. Meeting appointments for face to face discussions were offered and a dedicated webpage with online questionnaire was created for comments to be recorded.

5.14 Appendix A provides the proposed policy. The key changes from the existing policy are:

- The Council will not issue vehicle licenses to companies who intend to hire or lease the vehicle to a third party.
- All vehicles will normally be less than four years old when first licensed.
- All vehicles licensed by the Council must be (as a minimum) compliant with the terms of the Clean Air Zone and meet with its emission standards.

- Hybrid, plug-in hybrid or fully electric powered vehicles will be encouraged, providing the minimum specifications set down in the relevant Private Hire or Hackney Carriage vehicle licence conditions are met.
- Alternative fuel vehicle conversions are permissible provided genuine conversion certificates from industry approved installers are provided prior to the vehicle being first licensed.
- All drivers must complete a B&NES approved course relating to raising awareness around the issue of child sexual exploitation. Evidence of successful completion of the training must be produced on the driver's first licence renewal. Failure to provide evidence of course completion will result in refusal of the renewal application.
- Any failure to produce a Disclosure & Barring Services Certificate dated within 30 days of its issue howsoever caused will result in a delay in any licence being issued and may result in referral to the Licencing Sub Committee.
- The Council expects all licensed hackney carriage and private hire drivers to have sufficient expertise of the English language so that they can communicate freely and clearly with passengers and authorised officers. All new applicants are therefore required to undertake a B&NES approved assessment of their communication skills. Successful completion of this assessment is required before a licence can be granted.
- Those wishing to enter the executive/chauffeur hire corporate account sector should take advice from the Council's Licensing team on the suitability of the nature of the business model and proposed vehicle. If the proposal does not meet the criteria for exemption in the view of the Licensing team, then the applicant may appeal to the Licensing Sub Committee.

5.15 Following the public consultation and Licensing Committee, officers have considered the representations received and whether or not any changes should be made to the proposals. There are no recommendations from either officers or the Licensing Committee to make further changes to the proposed policy.

#### 5.16 **Changes to the Private Hire Drivers conditions:**

5.17 Following the Licensing Committee the Team Manager was asked to review the proposed policy and conditions in liaison with the Council's Equalities Officer. As a result some amendments have been made to the private hire driver conditions and hackney carriage driver byelaws which are contained in Appendix B. The amendments are shown in bold and italics.

## 6 RATIONALE

6.1 The previous policy and conditions adopted by the Council have been updated to align with the proposals on air quality, the need to ensure that all drivers have an awareness of how to respond to concerns about Child Sexual Exploitation and the need to ensure that new applicants are able to effectively communicate with passengers in the interests of public safety. Following the Equality Act 2010

(Commencement No. 12) Order 2017, it is also recommended that the Council adopts these provisions in the interests of transparency and fairness to both licence holders and wheelchair users.

## 7 OTHER OPTIONS CONSIDERED

7.1 None.

## 8 CONSULTATION

8.1 A public consultation in relation to the proposed revised policy and conditions was carried out as referred to in paragraph 5.13 of this report.

8.2 The Council's Monitoring Officer and Section 151 Officer have had the opportunity to input to this report and have cleared it for publication.

8.3 Cabinet Member, Members of the Licensing Committee, the Council's Equalities Officer and the local taxi trade, have been engaged in the consultation process on the proposed policy and conditions.

8.4 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

8.5 An equalities impact assessment has been completed in relation to the revised policy and conditions and adoption of Section 165-167 of the Equalities Act 2010. This identified that the adoption of Section 165-167 has a positive impact for disabled people who use wheelchairs. There is a potentially negative impact for new applicants who need support to pass the English Speaking test and the Council is exploring ways for applicants to access training so that they can be successful.

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<b>Background papers</b>	<i>Conditions previously adopted by Licensing Committee on 17 October 2018</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	