

**REPORT TO:** Full Council 28th November 2019

**LEAD CABINET MEMBER:** Cllr Bill Handley – Lead Cabinet Member for Environmental Services & Licensing

**LEAD OFFICER:** Mike Hill – Director of Housing, Health & Environmental Services

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## **Hackney Carriage & Private Hire Licensing Policy**

### **Executive Summary**

1. Full Council is requested to approve and adopt a new Licensing Policy for Hackney Carriage and Private Hire vehicles, drivers and operators following a public consultation process and as recommended by the Licensing Committee and Climate & Environment Advisory Committee.

### **Key Decision**

2. This is not a key decision, as its reserved to Full Council due to its significance in terms of its effects on the public safety of residents and communities throughout the District where hackney carriage and private hire services are an integral part of the transport needs for a rural area. Notice of this decision was first published in the October 2019 Forward Plan.

### **Recommendations**

3. That Full Council approve and adopt the revised Hackney Carriage & Private Hire Licensing Policy at Appendix A, effective from 1<sup>st</sup> January 2020.

### **Reasons for Recommendations**

4. This is a brand-new policy, updated to address the Council's Business Plan 2019-2024 and to increase protection of the public, improve air quality and support small local businesses. There are significant changes to the layout of the policy, and it is recommended that the policy is viewed as a completely new document.
5. Following a full public consultation, the Policy has been recommended for adoption by Licensing Committee at its meeting on 11<sup>th</sup> November 2019. Additionally, Climate & Environment Advisory Committee considered the Policy at its meeting on 19<sup>th</sup> November 2019. Recommendations have been included in the Policy document.
6. An external legal review of the policy has been undertaken and the policy updated to ensure complete legal compliance.

## Details

7. The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 creates a statutory duty for Local Authorities to licence Private Hire and Hackney Carriage vehicles, drivers and operators. In carrying out this function the Licensing Authority has a duty to ensure that public safety is paramount whether it is to prevent direct danger to the passenger from the driver of the vehicle or danger to the passenger and other members of society from the vehicle itself.
8. Under legislation the Council has the powers to introduce policies and conditions that it considers reasonably necessary to provide hackney carriage and private hire vehicles that are accessible and safe and to promote the safety of the travelling public. Too restrictive an approach can work against the public interest and could have safety implications by encouraging illegal operations or forcing the trade to licence elsewhere where conditions are less onerous, thereby losing regulatory control over drivers and vehicles working in our area.
9. To provide context, there are currently 1337 drivers licensed by South Cambridgeshire DC, along with 1160 vehicles. By comparison, Cambridge City current licenses around 500 vehicles.
10. A full public consultation on the draft 2019 policy took place between 8<sup>th</sup> July and 23<sup>rd</sup> September 2019. The consultation document was available on the SCDC website and sent out to key stakeholders. Additionally, a successful and very well-attended public and trade consultation event was undertaken in the Council Chamber on the 29<sup>th</sup> and 30<sup>th</sup> July 2019 with over 150 people visiting over both days. In total 54 consultation responses were received from individuals, businesses, Councillors, Cambridge City Council and trade associations on behalf of drivers and operators.
11. An online petition was received in September 2019 rejecting the policy item on company door signs being mandatory. The petitioner attended Licensing Committee on 11<sup>th</sup> November 2019 and has indicated that he will also attend Full Council to present the petition as set out in the SCDC Constitution. A copy of the petition can be seen at Appendix B and copies of signatures are available on request.
12. A Licensing Committee workshop was held to consider the comments made at the consultation, taking on board the views of the trade, officers and members. Issues of particular note considered by Licensing Committee included:
  - CCTV in vehicles
  - Private Hire Vehicle Plate Exemption
  - Introduction of ultra-low and zero emission vehicles for
    - all new vehicle licences from 2021
    - all renewed vehicle licences from 2028
  - Vehicle Age policy

### **CCTV**

13. The requirement for CCTV to be installed in private hire and hackney carriage vehicles was agreed by Council in 2018, subject to further consultation with the trade. Following that consultation, operators and drivers of plate exempt vehicles delivering executive and chauffeur style business models continue to argue against the installation of CCTV in their vehicles on the grounds of protecting the privacy of pre-booked, contract-based clients.

14. Concerns were also raised that the cost of CCTV would be a barrier to entry to the trade. Officers have looked into the overall cost of purchase and have come to an indicative price of around £350 to £550 for a system that will meet the ICO (Information Commissioner Office) standards.
15. Licensing Committee considered the 2019 consultation responses and recommends that CCTV is installed in all vehicles licenced by this Council, with no exceptions. The policy at Appendix A implements the requirement for all vehicles, including plate exempt vehicles, to install CCTV to provide a consistent approach to public safety and safeguarding.

### **Plate Exemption Policy**

16. Legislation allows the Council the freedom to exempt certain types of business and vehicle from elements of the licensing policy. The current exemptions allow chauffeur-type vehicles not to display licensing plates (“plate-exemption”) and door signage which would detract from the prestige image that is part of that business model.
17. The 2018 policy provided for plate-exemption for vehicles engaged ‘primarily’ in executive/chauffeur-based work. This enabled plate-exempt vehicles to undertake occasional non-plate-exempt private hire work, in competition with normal private hire vehicles. As a result, applications for plate-exempt vehicle licenses have noticeably increased due to the ambiguity of this policy wording and now account for approximately 25% of all vehicles licensed by the Council.
18. Licensing Committee considered that the ambiguous wording “primarily” should be removed as it was having the effect of creating a loophole in the standards and consistency of approach to public safety and is almost impossible to enforce. Non-plate-exempt private hire drivers and operators also argued that it had introduced unfair competition, as plate-exempt vehicles could still do “normal” private hire work from which they were claiming exemption.
19. However, small operators and drivers were concerned that any tightening up of the policy wording would mean that they will be unable to provide occasional services to local residents which may keep their business trading. This must be balanced by a policy change which brings certainty of approach to public safety and creates a level-playing field for drivers and operators. Small, local operators wishing to fulfil local residents’ needs for e.g. regular trips to hospital appointments, will still be able to do this work by arranging for a contract to be in place before the work begins. Small local operators wishing to undertake occasional “normal” non-plate-exempt bookings will be able to do so by either
  - (a) giving up their vehicle plate-exemptions or
  - (b) running one vehicle in their fleet with no plate-exemption.
20. As a result, Licensing Committee recommends that the new policy at Appendix A replaces the word ‘primarily’ with the word ‘solely’ to clarify the grounds on which plate-exemption can be agreed for vehicles. This has the effect of preventing plate-exempt vehicles from being used for occasional ‘normal’ private hire work.

21. No legal definition exists for granting a vehicle a plate-exemption. Following challenge from Licensing Committee for increased clarity, the definition of the type of business that can apply for a vehicle plate-exemption is now recommended as:
- (a) Chauffeur / prestige-type services
  - (b) Fulfilling a pre-existing, written contract (pre-existing meaning signed at least 10 working days in advance of the hire)
  - (c) Providing a regular service (whether to an individual or to a business)
22. This definition will not cover every business circumstance and officer discretion will be used to determine individual applications based on the merits of the case, as required by legislation.

### **Introduction of ultra-low & zero emission vehicles for all new vehicle licences from 2021**

23. As part of the SCDC Business Plan 'Green to the Core' commitments, the new policy introduces a requirement for all new vehicles to be ultra-low or zero emission with effect from 1<sup>st</sup> October 2021. This will have a significant impact on improving air quality across the District and Cambridge City and contribute to protecting the health of residents. Additionally, this policy-change aligns South Cambridgeshire and Cambridge City providing consistency of approach for local businesses across the local authority boundary.
24. However, concerns were raised that this part of the new policy is being introduced too quickly and that there are not enough charging points in South Cambridgeshire, there is only limited availability of expensive ultra-low or zero emission vehicle that are suitable for use by the trade due to their relatively low mileage range.
25. For information Cambridge City Council has already introduced a similar policy but from April 2020. Cambridge City recently consulted on changing this date to April 2021 but Members decided against this.

### **Introduction of ultra-low & zero emission vehicles for all renewed vehicle licences from 2028**

26. Similarly, as part of the SCDC Business Plan 'Green to the Core' commitments, the new policy introduces a requirement for all vehicles seeking a licence renewal to be ultra-low or zero emission with effect from 1<sup>st</sup> October 2028. This will allow current licence holders adequate time to plan for this change. Again, this will have a significant impact on improving air quality across the District and Cambridge City.

### **Vehicle Age Policy**

27. The vehicle age policy has been amended to encourage use of ultra-low and zero emission vehicles. It is proposed to introduce an upper age limit of 9 years for petrol and diesel vehicles seeking the renewal of a licence. This age limit will support drivers and small businesses to complete current hire purchase agreements.

### **Climate & Environment Committee Considerations**

28. Climate & Environment Committee considered the proposed environment and emissions-related policy changes at its meeting on 19<sup>th</sup> November 2019. The committee recommended that:
- (a) The petrol and diesel vehicle age on renewal be kept at 9 years but that additionally, all petrol and diesel vehicles must comply with at least the “Euro 5” emissions standards limiting CO, NOX and particulate matter emissions, introduced in September 2011.
  - (b) The 2021 and 2028 deadlines for the introduction of ultra-low and zero-emission vehicles be agreed by Council
  - (c) That in addition to the vehicle age criteria, that clear standards are included in the Policy for the reduction of CO<sub>2</sub>, CO, NOX and Particulate Matter.
  - (d) Cabinet should consider increasing investment in the provision of dedicated electric vehicle charging points for use by drivers and vehicles across the district to support the uptake of ultra-low emission and zero emission vehicles.
  - (e) Council should balance the need to be ambitious in our environmental standards with the provision of sufficient high-quality vehicles to meet the huge accessibility and rural transport needs of South Cambridgeshire district.
  - (f) To keep up with changing standards and technical developments, that the detailed emissions limits be stated not in the Policy document, but in the accompanying “Hackney Carriage and Private Hire Handbook”. This will enable any detailed national standards to be updated via the Handbook and without the need for a full consultation and review of the Policy.

### **Appeals against Officer Decisions**

29. The previous policy included provision for appeals against officer decisions to be heard by a Licensing Sub-committee. This is not a legal requirement but has been an extra step introduced by South Cambridgeshire District Council, with associated extra costs of officer and committee time.
30. Licensing Committee recommends removing this route of appeal to licensing Sub-Committee and adopt the formal legal appeal route via Magistrates Court. This will reduce costs to the Council and speculative appeals against officer decisions.

### **Certificate of Compliance testing**

31. To increase public confidence, maintain high standards of mechanical safety and environmental performance, and align with Cambridge City’s policy, Licensing Committee recommends that all private hire and hackney carriage vehicles undergo 2 “Certificate of Compliance” tests against the Policy each year at 6 month intervals. This is in addition to an annual MoT test. This is an improvement over the current policy requirement for a single, annual Certificate of Compliance check. These Certificate of Compliance test can be delivered by a network of 25 local garages across the District and Cambridge City, supporting local businesses in our local villages.

## Considerations

32. In recommending the proposed draft policy and conditions, consideration has been given to the views of those that responded to the consultation, Department of Transport Best Practice Guidance on Taxi & Private Hire Vehicle Licensing, Local Government Association guidance, Institute of Licensing model convictions policy, as well as policies currently in force with neighbouring authorities and the need to promote public safety. In addition, the policy has been reviewed by a leading legal expert on licensing law.
33. The adoption of a comprehensive policy alongside more specific conditions will allow the authority to maintain high standards throughout the trade and will set expectations of conduct both to existing licence holders and prospective license holders. The overarching aim of any policy or conditions is to ensure that protection of the travelling public is paramount in any decisions taken by this authority
34. In preparing any policy, consideration must be given to the risks and benefits of adopting a policy that is too onerous to encourage take up by new applicants and existing trade.

### Benefits

A strict policy and conditions will contribute to those people applying for and holding a licence with South Cambridgeshire District Council meeting stringent standards that will help contribute to a higher professional standard and safety of the travelling public.

### Risk

A licensing policy and conditions that are too onerous may encourage the trade to go elsewhere where conditions are lower to obtain a licence and return to work in the South Cambridgeshire district. In such cases this authority would have no powers to enforce or regulate such activities.

Setting entry standards that are disproportionate or too onerous may lead to persons deliberately operating illegally due to the difficulty and cost of being licensed against the risk of being caught and the possible fines imposed by any court.

## Options

35. Council may agree one of the following options
  - Agree the proposed policy as recommended
  - Reject the proposed policy.
  - Amend the proposed policy.

## Implications

36. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

## **Financial**

37. There are no significant financial implications for SCDC. Private Hire and Hackney Carriage licensing remains chargeable on a cost-recovery basis.

## **Legal**

38. Any applicant for a licence or any existing licensee affected by a decision resulting from the introduction of new policies or conditions has a right of appeal to a Magistrates Court

## **Staffing**

39. There are no significant implications. The new policy will be delivered within a cost-recovery budget.

## **Risk Management**

40. There is a risk to the implementation of CCTV by the policy date. This is due to continued uncertainty as to the date by which CCTV standards will be agreed by the Information Commissioner's Office. If required, Licensing Committee will be asked to review and agree a revised implementation date in line with the Policy requirements.

## **Equality and Diversity**

41. Concerns have been raised by the trade over the possible low availability of wheelchair accessible vehicles that meet the ULEV and zero-emissions standards required from October 2021. This may have a negative impact on residents and customers who use a wheelchair. A Wheel Chair Demand Survey will be undertaken by June 2021 and the results taken to Licensing Committee to review the impact of the proposed policy on wheelchair users and make recommendations as to any Policy changes required, if any.

## **Climate Change**

42. Promotion of environmentally friendly vehicles will contribute to the reduction of harmful gasses in the atmosphere.

## **Consultation responses**

43. All existing licence holders were consulted seeking their written views and comments on the proposed changes. In addition we also sought views from: -
- (a) Hackney Carriage drivers and proprietors
  - (b) Private Hire drivers and proprietors
  - (c) South Cambridgeshire Private Hire operators  
South Cambridgeshire DC Councillors
  - (d) Parish Councillors
  - (e) Neighbouring authorities
  - (f) General Public

## **Effect on Council Priority Areas**

### **Growing local businesses and economies**

44. This policy supports local businesses in our villages by supporting local garages to undertake Certificate of Compliance tests twice a year on all licensed vehicles.
45. Additionally, the policy requires operators to be based in the District. This encourages local business opportunities.

### **Housing that is truly affordable for everyone to live in**

46. This policy ensures that South Cambridgeshire residents have access to sufficient local transport options in our rural district

### **Being green to our core**

47. This new licensing policy promotes improved air quality and reduces environmental impacts through the introduction of ultra-low and zero emission vehicles.

## **Background Papers**

Local Government (Miscellaneous Provisions) Act 1976  
Town Police Clauses Act 1847  
DFT Taxi & Private Hire Vehicle Licensing – best practise guidance  
Local Government Association Convictions guidance

## **Appendices**

Appendix A: Hackney Carriage and Private Hire Policy  
Appendix B: Online petition

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