



REPORT TO: Full Council

20th February 2020

LEAD CABINET MEMBER: Cllr Bill Handley – Environmental Services & Licensing

LEAD OFFICER: Jen Holah – Corporate Licensing Manager

Approval of Hackney Carriage and Private Hire Licensing Policy

Executive Summary

1. Full Council is asked to consider and to approve a new Taxi Licensing Policy for Hackney Carriage and Private Hire vehicles, drivers, proprietors (vehicles) and operators following a public consultation process and as recommended by the Licensing Committee.

Key Decision - yes

2. This is a key decision because it is significant in terms of its effects on communities throughout the district where taxi services are an integral part of the transport needs for rural areas.
3. The key decision was first published in the October 2019 Forward Plan.

Recommendations

4. That Full Council
 - (a) Give due consideration to the petition presented to full Council on 28th November 2019 (Appendix B) when considering the revised Hackney Carriage and Private Hire Licensing Policy.
 - (b) Approve and adopt the revised policy at Appendix A from 1st April 2020.

Reasons for Recommendations

5. In order to adopt any changes of policy or conditions, there is a requirement to consider the views submitted from any consultation of those who may be affected either directly or indirectly from the changes proposed. Licensing Committee on 10th February 2020 considered all consultation responses and summaries, and these are reflected in these recommendations.
6. 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.

7. The policy has been reviewed and updated to ensure complete legal compliance.

Details

8. The Local Government (Miscellaneous Provisions) Act 1976 Part II 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, 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.
9. The legislation gives the Council powers to introduce policies and conditions that it considers reasonably necessary to provide a service that is accessible and safe and promotes 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 & vehicles working in our area.
10. A consultation on the draft policy took place between 8th July to 23rd September 2019 via consultation document on the 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 29th and 30th July 2019 with in excess of 150 people visiting over both days. A Licensing Committee workshop was also held to consider the comments made at the consultation, taking on board the views of the trade, officers and members. 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 11th November 2019 and Full Council on 28th November 2019 to present this. A copy of the petition can be seen at Appendix B and copies of signatures are available on request. Council agreed to note the petition and to give it due consideration when considering the Hackney Carriage and Private Hire Licensing Policy and Conditions.
12. On the 27 November 2019 letters from representatives of the trade were received by South Cambridgeshire District Council. Following legal advice and to enable further open consideration of the issues raised by the trade, it was agreed to go out for further consultation for a further 6 weeks, from the 20th December 2019 to the 31st January 2020.
13. Across the two consultations, responses were received from individuals, businesses, Councillors, Cambridge City Council and trade associations on behalf of drivers and operators.
14. Issues of particular note that were considered by Licensing Committee included:
 - Vehicle Age policy
 - CCTV in vehicles
 - Private Hire Vehicle Plate Exemption
 - Introduction of ultra-low and zero emission vehicles for all new vehicle licences from 2021

- Introduction of ultra-low and zero emission vehicles for all renewed vehicle licences from 2028
- Wheelchair Accessible Vehicles

Vehicle Age Policy

15. The vehicle age policy has been amended to encourage use of ultra-low and zero emission vehicles.
16. It is proposed to introduce an upper age limit of 9 years for the renewal of vehicle licences from December 2021. This will assist with current hire purchase agreements entered into by current proprietors and enable them to complete these agreements.
17. Licensing Committee sought the advice of the Climate and Environment Committee in respect to all the vehicle requirements in this policy and their report is appended.

CCTV

18. There continues to be a number of concerns relating to CCTV with a strong resistance to its installation in plate exempt vehicles (chauffeur work) and also in relation to the cost being a barrier to entry. Officers have looked into the overall cost of purchase and have come to an indicative price that meets the ICO (Information Commissioner Office) regulations at around £350 to £600.
19. Licensing Committee has previously considered these issues as part of the adoption of the 2018 policy, further consultation with the trade has taken place as part of this process. The policy at Appendix A proposes to implement the requirement for all vehicles (including plate exempt) to install CCTV to provide a consistent approach to safeguarding. Operators and drivers of plate exempt vehicles delivering executive and chauffeur style business models are resisting installation of CCTV on the grounds of protecting the privacy of pre-booked contract-based clients.
20. Licensing Committee further considered the consultation responses and recommend that CCTV is installed in all vehicles licenced by this Council, with no exceptions.

Plate Exemption Policy

21. Particular responses made around plate exempt executive vehicles that from time undertake localised “normal” Private Hire work highlighting that whilst chauffeur style work is the primary focus, there is still an occasional local need, particularly in rural areas where the transport network is reduced, to serve local people in a normal PH style which subject to approval has been reflected in the policy.
22. The 2018 policy provided for plate exemption for vehicles engaged ‘primarily’ in executive/chauffeur-based work. This enables plate exempt vehicles to undertake occasional non-plate-exempt private hire work. As a result, applications for plate exempt vehicles has noticeably increased due to the ambiguity of this policy wording. The new policy at Appendix A replace the word ‘primarily’ with the word ‘solely’ to clarify the grounds on which vehicles can be plate exempt. However, this has the effect of preventing plate exempt vehicles from being used for occasional ‘typical’ private hire work. Small operators and drivers are concerned that this means that they will lose money and be unable to provide occasional services to local residents which may keep their business trading.

23. The legislation allows the council the freedom to exempt certain types of business vehicle from elements of the policy currently the exemptions allow chauffeur type businesses not to display plates and door signage which would detract from the prestige image of that business model. In this circumstance an exemption would be agreed based on the existence of a pre-existing contract for a regular service. The recommendation is that we continue with this exemption, however in the previous policy there was flexibility to enable exempt vehicles to undertake non-exempt private hire work. By changing the word 'primarily' to 'solely' provides certainty and ensures fair competition. As a result plate exempt vehicles will not be able to be used for not-plate exempt work i.e. normal adhoc private hire work.
24. No legal definition of plate exempt exists. Therefore, our definition will not cover every business circumstance and officer discretion will be used to determine individual applications based on the merits of the case.

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

25. 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 1st October 2021. This will have a significant impact on improving air quality across the district and Cambridge City as it tackles not only CO2 emissions but also Nitrous Oxide and Particulate matter.
26. Everyone recognises the contribution this policy change will make to improving the health of residents and children. Additionally, this policy change aligns South Cambridgeshire and Cambridge City providing consistency of approach for local businesses across the boundary.
27. However, concerns were raised that this 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 unsuitable for use as taxis due to their relatively low mileage range.
28. For information Cambridge City Council has already introduced this policy but from April 2020. Cambridge City recently consulted on changing this date to April 2021 but members have decided against this.

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

29. Similarly, as part of the SCDC Business Plan 'Green to the Core' commitments, the new policy introduces a requirement for all renewed vehicles to be ultra-low or zero emission with effect from 1st 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.

Wheelchair Accessible Vehicles

30. It was acknowledged that there are very limited ULEV and Electric Vehicles Wheelchair Accessible Vehicles (WAV's) currently on the market. Licensing Committee considered the needs of wheelchair users took priority over the introduction of zero-emission and ULEV vehicles at this time. Therefore, the recommendation is to push back the date for wheelchair accessible vehicles

licensed by this Authority to be zero or ULEV to 31st December 2028. This date will be reviewed in 2026 to reflect the availability of such vehicles in the market nearer the time to ensure compliance can be achieved.

Considerations

31. In recommending the proposed draft policy and conditions, full consideration has been given to the views of those that responded to the two consultations, Department of Transport Best practise 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 taxi licensing law.
32. 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
33. 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

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

Implications

35. 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

36. There are no significant financial implications. Taxi licensing remains chargeable on a cost recovery basis.

Legal

37. 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

38. There are no significant implications.

Risk Management

39. 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 taxi CCTV standards will be implemented by the Information Commissioner's Office. If required, Licensing Committee will be asked to review the implementation date.

Equality and Diversity

40. An equalities impact assessment will be completed before the policy is considered for decision by Full Council.

Climate Change

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

Consultation responses

42. 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

43. 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.
44. Additionally, the policy requires new operators to be based in the district. This encourages local business opportunities.

Housing that is truly affordable for everyone to live in

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

Being green to our core

46. This new taxi 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

<http://www.legislation.gov.uk/ukpga/1976/57/part/II>

Town Police Clauses Act 1847

<http://www.legislation.gov.uk/ukpga/Vict/10-11/89/crossheading/hackney-carriages>

DFT Taxi & Private Hire Vehicle Licensing – best practise guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

Local Government Association Convictions guidance

<https://www.local.gov.uk/sites/default/files/documents/lga-example-taxi-and-priv->

SCDC Licensing Committee agenda and minutes 11 November 2019

<http://moderngov/ieListDocuments.aspx?CId=414&MIId=7712&Ver=4>

SCDC Licensing Committee agenda and minutes 10 February 2020

<http://moderngov/ieListDocuments.aspx?CId=414&MIId=7791&Ver=4>

Appendices

Appendix A: Hackney Carriage and Private Hire Policy

Appendix B: Online petition presented to Full Council on 28th November 2019

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