

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Operational Services Cabinet Committee

Date: 17 November 2020

Reporting officer: Mark Lees, Regulatory Services Manager
Mandy Francis, Licensing Manager

Subject: Hackney Carriage and Private Hire Licensing Policy Review

Purpose and summary of report:

1. To present Members with a draft of the revised Hackney Carriage and Private Hire Licensing Policy and the proposed consultation methodology

Recommendations:

1. Members to consider the draft policy for consultation and advise on relevant amendments.
2. Members to note the policy consultation process as outlined and provide any comments in respect of the same.

1. Background

- 1.1 The overarching aim of the taxi and private hire licensing regime is to protect the public by ensuring that all drivers, vehicles and operators are licensed and regulated by local authorities in accordance with statutory provisions, primarily set out in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and, where they exist, local policy requirements.
- 1.2 Although it is not a statutory requirement, the council has published a Hackney Carriage and Private Hire Licensing Policy (approximately) every three years since January 2009; taking into account the Best Practice Guidance issued by the Department for Transport, the Regulators' Code, the policies of other local authorities and any other relevant matters.
- 1.3 The fourth, and current, edition came into effect on 1 May 2018 and will expire on 30 April 2021.
- 1.4 Hackney carriages (taxis) and private hire vehicles, their drivers and their operators have an important role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available, outside 'normal' hours such as in the evenings or at weekends, or for those with mobility difficulties.

- 1.5 Policy requirements that are unduly stringent could restrict the availability of taxi and private hire services, and consequently be detrimental to public safety. It is therefore important to try and ensure that policy requirements are justified by the risks they aim to address and balanced against potential negative outcomes.
- 1.6 A successful balance will help the taxi and private hire trade develop successfully whilst providing safety and assurance to the public.
- 1.7 The existence of a policy has proved to have been an effective tool for achieving this balance and for establishing and maintaining standards, protecting public safety, and ensuring consistency and transparency.

2. Proposed Revisions

- 2.1 In July 2020, the Government issued Statutory Taxi and Private Hire Vehicle Standards under the Policing and Crime Act 2017, to which all Licensing Authorities must have regard in carrying out their licensing function.
- 2.2 Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers; primarily through ensuring the fitness and propriety of applicants and licence holders.
- 2.3 This 2021 revision therefore seeks to incorporate all of the standards set out within the Statutory Taxi and Private Hire Vehicle Standards where they are not already in place.
- 2.4 Guidance from Information Commissioner's Office has also confirmed that a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles, as Gravesham has done since 2009, will be responsible for the data and therefore need to register and act as the data controller.
- 2.5 Following subsequent advice from the council's Legal and Information Governance teams in light of this, it is therefore proposed that the installation of in-vehicle CCTV is made discretionary.
- 2.6 Whilst not a statutory requirement, it is also proposed that Disability Awareness training becomes a mandatory requirement for all new and existing licence holders.
- 2.7 Also, in support of the council's carbon neutral commitment, we propose to further strengthen our vehicle emissions limits by removing the option to licence vehicles meeting the Euro 5 emission standards, and instead only licence those which meet or exceed the Euro 6 standards (which the vast majority should do anyway by virtue of the council's vehicle age restrictions).
- 2.8 An in-depth review of the existing policy has been carried out by the Licensing Manager and Regulatory Services Manager to highlight areas of the policy that are considered to be in need of revision or removal, having particular regard to the matters outlined above.
- 2.9 All proposed changes have been incorporated into the draft policy attached at Appendix 3 and are set out in the table contained in Appendix 2 to this report for ease of reference.

3. Review of Policy

- 3.1 It is proposed that the revised policy, if approved by Members following consultation (as set out below), will come into effect on 1 May 2021 and remain valid for the extended period of five years, in accordance with the national standards, until 30 April 2026, unless it becomes necessary to make further revisions beforehand following changes to legislation or local circumstances, for example.

4. Consultation

- 4.1 It is proposed to consult with the following:

- All current hackney carriage vehicle or driver licence holders licensed by Gravesham Borough Council
- All current private hire vehicle, driver or operator licence holders licensed by Gravesham Borough Council
- Kent Police
- Gravesham Community Safety Unit
- Kent County Council Highways department
- Kent County Council (Schools contracts department)
- Gravesham Access Group
- Gravesend Town Centre Management
- Borough Councillors
- Parish Councils
- Members of the Kent and Medway Regulatory Licensing Steering Group
- Members of the public through the council's website

- 4.2 A consultation of at least four weeks is proposed. Methods of consultation will be via the council's website and by direct email and mail shots.

- 4.3 All incoming responses will be collated and entered onto a grid for consideration.

- 4.4 The Licensing Manager will conduct an evaluation of each response and give a recommendation, in consultation with the Regulatory Services Manager, as to whether or not to amend the policy statement and, if so, to what extent.

5. Post-consultation

- 5.1 The grid and recommendations will be put before the Operational Services Cabinet Committee when it meets on 24 March 2021 for further, post-consultation, consideration.

- 5.2 Any proposed variations by Members of the Operational Services Cabinet Committee will then be incorporated into the revised Hackney Carriage and Private Hire Licensing Policy to create a final draft.

- 5.3 Following consideration of the outcome of the consultation process and subsequent recommendations, the amended Policy will then be approved for adoption by the Portfolio Holder for Operational Services before publication.

6. BACKGROUND PAPERS

- 6.1 Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
<p>Legal</p>	<p>There is no legal requirement for a policy, however it is best practice. This is different from the Licensing Act 2003 and the Gambling Act 2005 where a written policy is a legal requirement.</p> <p>Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions.</p> <p>Under the Human Rights Act 1998 Members must consider the hackney carriage and private hire drivers' right to "enjoyment of possession" under Article 1 of the First Protocol – Protection of Property and in determining a policy regarding the licensing of these individuals must balance this right with need to protect the public.</p>
<p>Finance and Value for Money</p>	<p>The cost of consultation and publishing an updated policy will be met from within existing budgets.</p> <p>The Hackney Carriage and Private Hire Licensing Policy is not envisaged to place any new financial pressures on the Council</p>
<p>Risk Assessment</p>	<p>Whilst each individual application will be judged on its own merits, a documented policy ensures a transparent and consistent approach to licensing that reduces the opportunity for challenge through the Courts. Challenges to a particular decision are more likely to fail if the Council can demonstrate that it has adhered to its published policy and there was no reason to depart from it. Any departure from the policy will be based on material evidence and will be documented giving clear and compelling reasons for such departure.</p>
<p>Data Protection Impact Assessment</p>	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? No</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p>
<p>Equality Impact Assessment</p>	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p>

IMPLICATIONS	APPENDIX 1
	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.</p> <p>Yes - this revised policy seeks to strengthen requirements placed on licence holders to meet provisions of the Equality Act 2010, continues to ensure that Gravesham provides a suitably mixed fleet of wheelchair, and non-wheelchair, accessible vehicles to meet the needs of its community, and introduces a new requirement for licence holders to attend disability awareness training.</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Corporate Plan	Licensing links directly to Corporate Objective #1 People, and feeds into/supports Corporate Objective #3 Progress
Crime and Disorder	There are obviously links to community safety in ensuring an adequate supply of properly licensed taxis as a safe mode of transport for the public, particularly when other public transport is unavailable and ensuring the safety of drivers and the trade
Digital and website implications	Continued assistance is required from the IT and Digital Teams to support the Licensing Services' existing digital successes and ongoing, future digital aspirations to be amongst the most digitally advanced licensing services in the country for the mutual benefit of our licence holders, the public and the council.
Safeguarding children and vulnerable adults	Licensing regimes are largely designed to protect public safety. The new Statutory Standards go even further to protect public safety, especially children and vulnerable adults, and these have been incorporated into this Policy revision.