



**OPEN
LICENSING AND APPEALS COMMITTEE**

Licensing and Appeals Committee – 17 January 2023

REVIEW OF HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE LICENSING POLICY 2023 - CONSULTATION

Report of Director of Regulatory Services

Report Author and Contact Details

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Wards Affected

District Wide

Report Summary

To provide the Committee with an update on the review of the Council's Taxi and Private Hire Licensing Policy, and to seek approval of the draft revised document produced in Appendix 1 of the report, for consultation purposes.

Recommendations

1. That the Draft Taxi and Private Hire Licensing Policy detailed in Appendix 1 is approved for consultation purposes.
2. That subject to approval of recommendation 1 above, consultation on the draft policy is undertaken for an 8-week period from 1st February to 31st March 2023.
3. That the results of the consultation exercise are reported to a future meeting of this Committee for further consideration, for a Final Draft Taxi and Private Hire Licensing Policy to be agreed for referral to Council seeking approval to adopt and republish.

List of Appendices

Appendix 1 –

Draft Taxi and Private Hire Licensing Policy 2023 - Consultation Copy

Background Papers

Department for Transport (DfT) Statutory Taxi & Private Hire Vehicle Standards – July 2020.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

DDDC Taxi and Private Hire Licensing Policy 2018

https://www.derbyshiredales.gov.uk/images/Taxi_Licensing_Policy_-_approved_by_Council_12-4-2018.pdf

Equality Impact Assessment - DDDC Taxi and Private Hire Licensing Policy 2018

Consideration of report by Council or other committee

No

Council Approval Required

Council approval will be sought to adopt and republish a final Draft of the Taxi and Private Hire Licensing Policy.

Exempt from Press or Public

No

Review of Hackney Carriage (Taxi) and Private Hire Licensing Policy 2023 – Consultation

1. Introduction

- 1.1 The over-riding aim for Derbyshire Dales District Council ('the Council') when carrying out its functions relating to the licensing of Hackney (Taxi) or Private Hire Drivers, Vehicle Proprietors and Operators, is the protection of the public and others who use, or have an interest in licensed Taxi and Private Hire services.
- 1.2 This is achieved by having in place a robust Taxi and Private Hire Licensing Policy which sets out the various standards and procedures to be followed in administering Taxi and Private Hire Licensing across the district. The policy provides an overview to the general public, existing licence-holders and new applicants, that explains how licence applications will be dealt with and how once a licence has been granted the licence-holder will be monitored.
- 1.3 Whilst each application for a licence will always be considered on its merits, when determining an application officers and elected members must have regard to the Council's own taxi licensing policy, in addition to the related legislation, any associated regulations and guidance from Government.
- 1.4 The Council will only depart from its policy where it is considered appropriate to do so. This will normally be where there are exceptional circumstances which warrant a different decision and consideration. For example: an exemption to a particular policy requirement, such as the type or age of vehicle to be licensed.
- 1.5 The Council introduced its first taxi and private hire licensing policy in 2009; this was reviewed and approved by the full Council in 2018. It was intended to review the policy every 5 years, or sooner if there was a significant reason, but a full review of the policy was postponed on more than one occasion during the 9 year period, as there had been recurring rumours that there would be a complete overhaul of taxi and private hire licensing legislation. This is still awaited.
- 1.6 The Department for Transport's (DfT) Statutory Taxi and Private Hire Vehicle Standards

Members may recall that at the October 2020 meeting, a report was considered which informed how the Department for Transport (DfT) had published taxi and private hire licensing statutory guidance to licensing authorities, outlining how they should carry out their licensing function.

- 1.7 This was the first time statutory guidance had been issued for the Taxi and (PHV) Private Hire Vehicle sector of the transport trade; it had been issued to replace relevant sections of the Best Practice Guidance issued by the DfT in 2010, which was the only government guidance to licensing authorities, until the statutory guidance issued in 2020.
- 1.8 The focus of the national standards in the guidance, is on protecting children and vulnerable adults and includes extensive advice on checking the suitability of individuals and operators to be licensed.
- 1.9 Members may recall that of the changes needed to update many licensing authorities' operations, highlighted in the statutory guidance, this Council was already promoting or partially promoting approximately 70% of them.
- 1.10 The DfT had informed Councils that progress in implementing the standards would be monitored, and if necessary the DfT would work with authorities not meeting their responsibilities and would also look to introduce legislation if licensing authorities fail to adopt the standards and update their operations.

2. Key Issues

- 2.1 The issues that the DfT considered all Councils need to include as part of their Taxi and Private Hire Licensing Policy, (if not already covered), are:
 - To gather and share information with other Licensing Authorities – using a national register of taxi licence refusals and revocations.
 - Requiring Taxi & PHV licensed drivers to self-report within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
 - Reviewing the Council's Taxi Licensing Policy every 5 years, with interim reviews if changes necessary as a result of local needs, legislative change etc.
 - Details of the Licensing Authority's whistle-blowing policy for Officers and Councillors.
 - The Licensing Authority working closely with/being part of Multi Agency Safeguarding Teams.
 - Having an improved system for recording complaints against drivers, and a mechanism for making sure passengers know how to make a complaint to the Licensing Authority.
 - Requiring licensed drivers to have 6-monthly Disclosure and Barring Service (DBS) criminal record checks; and making it mandatory for licensed drivers to subscribe to the DBS On-line Update Service.
 - To introduce a more robust fit and proper test including relevance of criminal convictions – for example, a Penalty Points Scheme for offences and breach of conditions.
 - To introduce criminality checks for vehicle licence holders who are not licensed drivers or operators and not subject to DBS checks at present. For example anyone who owns/part owns a licensed vehicle but is not licensed.
 - Introduce improvements to Private Hire Operator record keeping requirements.

- 2.2 Members may recall from the last meeting that the introduction of The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, requires that where a Licensing Authority receives information relating to safeguarding concerns about a taxi or private hire vehicle driver licensed by another authority, they must share the information with the issuing authority.
- 2.3 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 will also require licensing authorities to search a national licensing database of driver revocations and refusal for entries relating to new applicants before determining applications for driver licences. The Regulations stipulating when from and which database will be used are still awaited, although it is widely assumed that the current NFI's Register of Refusals and Revocations (known as the NR3 Register) currently being used by many licensing authorities across England and Wales, will be the one specified.
- 2.4 The Council's Taxi and Private Hire Licensing Policy is based on other legislative requirements which include provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town and Police Clauses Act 1847. In reviewing its policy the Council will continue to comply with its duties under the Equality Act 2010 and under the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.
- 2.5 The Taxi and Private Hire Licensing Policy was last adopted in 2018, so in line with statutory, and/or locally agreed, timescales for reviewing other licensing policies, a review is due.

3. Options Considered and Recommended Proposal

- 3.1 It is necessary to consult widely on the revised Draft Taxi and Private Hire Licensing Policy, with a view to introducing a new policy as soon as is practicable, to ensure compliance in adopting the national taxi and private hire vehicle standards.
- 3.2 Not to do so could result in intervention by DfT, who are monitoring the progress of all Councils in implementing these standards, and updating their operations.
- 3.3 It is therefore recommended that the draft policy document reproduced in Appendix 1 is approved for consultation, and that any comments received are reported back to a future meeting of this Committee.

4. Consultation

- 4.1 As this report seeks a decision to make changes to policy and procedures, consultation on an agreed draft policy document will be required.

5. Timetable for Implementation

- 5.1 As soon as is practicable.

6. Policy Implications

- 6.1 The Council's Taxi and Private Hire Licensing Policy must be amended to address the requirements of The Department for Transport's (DfT) Statutory Taxi and Private Hire Vehicle Standards, and The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022.
- 6.2 A draft Policy document for consultation purposes has been developed taking into account the required changes. It is included in **Appendix 1**.
- 6.3 A full consultation exercise on the proposed revisions to the policy will be necessary, and should include not only the Taxi and Private Hire trade, but other stakeholders, for example, the general public, fare paying passengers, minority groups, organisations with a wider transport interest, eg Derbyshire County Council's Special Needs Education Transport Team, etc, other teams within the Council, and other statutory bodies, such as the police, local safeguarding, HMRC and the Immigration Office.
- 6.4 Details of anyone consulted on the draft Policy will be included in the document. Members may wish to consider timescales for introducing the new requirements, to ensure minimum cost/burden to the trade during this difficult economic period, but balanced against the need to adopt a robust taxi and private hire licensing policy to continue to protect public safety.

7. Financial and Resource Implications

- 7.1 The cost of a consultation exercise in respect of the Taxi and Private Hire Licensing Policy can be delivered within existing budgets and, therefore, the financial risk arising from this report is low.

8. Legal Advice and Implications

- 8.1 This report provides the Committee with an update on the review of the Council's current Taxi and Private Hire Licensing Policy. There are 3 recommendations in connection with this report, all of which relate to approval of the draft Taxi and Private Hire Licensing Policy so that a consultation exercise can be carried out, and for the results of the consultation to be reported to a future meeting of the Committee.
- 8.2 The District Council has a duty to consult, and to demonstrate that it has consulted in making decisions on how to undertake its functions and activities which affect the public. Failure to consult or demonstrate how consultation has influenced the decision making process is an area where the District Council could face legal challenge. As long as there is compliance with legislative requirements to make changes to the Policy, the legal risk at this time has been assessed as low.

9. Equalities Implications

- 9.1 In reviewing its Taxi and Private Hire Licensing Policy the Council will comply with its duties under the Equality Act 2010. It will also comply with the requirements under the Taxis and Private Hire Vehicles (Disabled Persons) Act.
- 9.2 To minimise the risk of legal challenge and to ensure that the potential impact upon protected groups is taken into account in the District Council's decision making framework, Equality Impact Assessments (EIAs) are prepared where needed. This review of the Policy is subject to an Equalities Impact Assessment (EqIA).

10. Climate Change Implications

- 10.1 There are no direct climate change implications arising from this report as the recommendations relate only to the consultation exercise. However, the impact of any of the proposed changes will be assessed when the responses from the consultation are being considered at a future meeting.

11. Risk Management

- 11.1 The District Council has a statutory responsibility to undertake the duties outlined in the report.

Report Authorisation

Approvals obtained from:-

	Named Officer	Date
Chief Executive		
Director of Resources/ S.151 Officer	Karen Henriksen	09/01/2023
Monitoring Officer	James McLaughlin	09/01/2023