



**OPEN  
LICENSING AND APPEALS COMMITTEE**

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**Licensing and Appeals Committee – 27 June 2023**

**REVIEW OF HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE LICENSING POLICY 2023 – PROGRESS REPORT**

**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, informing members of additional changes made to the consultation document approved at the January 2023 meeting of the Committee.

**Recommendations**

1. That the Committee note the amendments made to the Draft Taxi and Private Hire Licensing Policy consultation document. (original draft policy document approved at the January 2023 meeting).
2. That the Committee note the revised dates of the 8-week consultation exercise as 26<sup>th</sup> June to 20<sup>th</sup> August 2023.
3. That the results of the consultation exercise are reported to the October 2023 meeting of this Committee for further consideration and to agree a Final Draft Taxi and Private Hire Licensing Policy for referral to the full Council, seeking approval to adopt and republish by 1<sup>st</sup> January 2024.

**List of Appendices**

Appendix 1 Draft Taxi and Private Hire Licensing Policy (proposed amendments highlighted).

**Background Papers**

<https://www.gov.uk/government/publications/taxis-and-private-hire-vehicles-safeguarding-and-road-safety-act-2022>

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

Equality Impact Assessment - DDDC Taxi and Private Hire Licensing Policy (2022)

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 a final Draft of the Taxi and Private Hire Licensing Policy, with a view to republish it with effect from 1<sup>st</sup> January 2024.

**Exempt from Press or Public**

No

# Review of Hackney Carriage (Taxi) and Private Hire Licensing Policy 2023 – Progress Report

## 1. Introduction

1.1 The following background information may be of interest to new members of the Committee.

## 1.2 Background

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.

1.3 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, of how licence applications will be dealt with and how once a licence has been granted a licence-holder will be monitored.

1.4 Whilst each application for a licence will always be considered on its own merits, officers and elected members must have regard to the Council's taxi licensing policy, in addition to related legislation, associated regulations and guidance from Government, when determining an application.

1.5 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. This is particularly relevant if someone wishes to licence a vintage or novelty vehicle.

1.6 The Council introduced its first taxi and private hire licensing policy in 2009; this was reviewed, approved and re-published by the Council in 2018. It was intended that the Policy would be reviewed and re-published every 5 years, or sooner if there was a significant reason.

1.7 Members may recall that a full review of the Council's taxi and private hire licensing policy has had to be postponed several times during that period, as it was rumoured that there would be a complete overhaul of taxi and private hire licensing legislation. To date, this has not happened, but the introduction of the Statutory Taxi and Private Hire Vehicle Standards by the Department for Transport (DfT) is a step in the right direction to achieving consistency across all licensing authorities

## 1.8 The Department for Transport's (DfT) Statutory Taxi and Private Hire Vehicle Standards

At the January 2023 meeting, Members were reminded of a report to an earlier meeting that had been 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.

- 1.9 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.
- 1.10 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.
- 1.11 Members may recall that at that time the Council's own policies and procedures already complied with many of the requirements highlighted in the statutory guidance; the Council was already promoting or partially promoting approximately 70% of them.
- 1.12 The DfT had informed Councils that progress in implementing the standards would be monitored, and, if necessary, the DfT would work with authorities that were not meeting their responsibilities. It was also noted that the DfT would also look to introduce legislation if licensing authorities failed 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 At the January 2023 meeting it was reported that the introduction of The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, would require 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 It was also reported that the 2022 Act would 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.
- 2.4 At the meeting in January, the Regulations stipulating when from and which database would be used were still awaited.
- 2.5 On 31 March 2022, the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 received Royal Assent. Full details of the requirements of the Act and how it would apply can be viewed via the following link <https://www.gov.uk/government/publications/taxis-and-private-hire-vehicles-safeguarding-and-road-safety-act-2022>
- 2.6 The Guidance stipulated the designated database for recording and searching details of Taxi/PHV driver licences as the (NAFN) National Anti-Fraud Network's National Register for Revocations, Refusals and Suspensions,(known as NR3S). This register was already in use by many licensing authorities across England and Wales, on a voluntary basis.
- 2.7 To comply with the legislation and be able to use the national register with effect from 27 April 2023, the Council had to subscribe to NAFN, and the register has been checked for every application received since that date. The Licensing Team are currently preparing historic data of any refusals and revocations to upload to the register.
- 2.8 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.
- 2.9 The Council's current 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 by the end of this year.

### **3. Options Considered and Recommended Proposal**

- 3.1 At the January meeting it was agreed that it was 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, and to ensure compliance in adopting the national taxi and private hire vehicle standards.
- 3.2 The Committee are advised that the draft policy document approved at the January meeting of this Committee for consultation, has been reviewed further and additional changes made with regard to the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, to ensure the consultation exercise captures the most current proposals for consideration.

- 3.3 The consultation exercise commenced on 26<sup>th</sup> June with the deadline response date of 20<sup>th</sup> August 2023.
- 3.4 Any comments received during the consultation period will be reported to the October meeting of this Committee, with a view to a final draft policy document being referred to full Council for consideration.
- 3.5 Provided that the proposed timescales for completion of the consultation exercise and reporting back to this Committee and full Council are met, then a revised, robust and fit for purpose taxi licensing policy could be introduced with effect from 1<sup>st</sup> January 2024.

#### **4. Consultation**

- 4.1 This report informs the Committee of proposed changes to the Council's taxi licensing policy and procedures; it therefore requires a full consultation exercise being carried out before a final draft policy document can be approved for referral to full Council for consideration.

#### **5. Timetable for Implementation**

- the consultation exercise commenced on 26<sup>th</sup> June with end date for comments as 20<sup>th</sup> August 2023.
- the consultation responses to be reported to the meeting of this Committee on 3 October 2023.
- a final draft policy document to be considered by full Council before end of 2023.
- if approved by the full Council the date for implementing the new policy would be 1<sup>st</sup> January 2024.
- revised policy to be kept under review during 5-year period – on-going.

#### **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 was developed at the end of 2023, taking into account the required changes. This was reported to the January 2023 meeting and it was agreed that a consultation exercise should be now available on the Council's Taxi Licensing Policy website page.
- 6.3 A full consultation exercise on the proposed revisions to the policy will be necessary. We have included not only the Taxi and Private Hire trade, but as many other stakeholders as possible, 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 everyone consulted on the draft Policy will be included in the final draft document for referring to full Council.

- 6.5 At the next meeting members may wish to consider timescales for introducing any of the new requirements, to ensure minimum cost/burden to the trade, 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 comprehensive 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:

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Paul Wilson	
Director of Resources/ S.151 Officer	Karen Henriksen	
Monitoring Officer	James McLaughlin	19/06/2023