

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

19 APRIL 2012

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Portfolio - Housing & Community Safety – Lead Cabinet Member – Councillor Steven Nelson

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY REVIEW

1. Summary

The purpose of this report is for Members to consider the views and comments received from the Licensing Committee, trade and other interested parties following consultation on the three yearly review of the Hackney Carriage and Private Hire Licensing Policy. Members are requested to determine the final policy

2. Recommendations

1. That Cabinet approve the Hackney Carriage and Private Hire Licensing Policy as presented in **Appendix One**.
2. That Cabinet approve the approach to driver training and public safety, as detailed in paragraphs 9 – 14 of this report.
3. That officers seek further legal advice with regard to requiring licensed private hire operators to have a proportion of wheelchair accessible vehicles within their fleet dependent on the number of vehicles they operate. If that advice suggests that this would be possible officers shall prepare proposals, consult with the trade and provide a report to Cabinet with potential changes to the policy for their consideration.

3. Reasons for the Recommendations/Decision(s)

The introduction of the revised Hackney Carriage and Private Hire Licensing Policy following this review will improve public safety, protect reputable traders and assist in ensuring that licensing application and disciplinary decision are made in an open and transparent matter. This will strengthen the Councils position when dealing with any 'taxi' licensing appeals.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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RECOMMENDATIONS

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DETAIL

1. As a period of three years has passed since the introduction of the consolidated Hackney Carriage and Private Hire Licensing Policy the Licensing Committee, at their meeting held on 13th December 2011, agreed a draft revised policy document in respect of Hackney Carriage and Private Hire licensing for consultation with the trade and other interested parties (Minute L51/11 refers).
2. All licensees were informed in the 'Trade Times' newsletter of the consultation, an advert was placed in a local newspaper and details and a consultation response document were placed on the Trading Standards & Licensing website.
3. That consultation was undertaken and the Licensing Committee considered the responses received, together with officer's comments at their meeting on the 8th March 2012. At that meeting the Members considered that various proposed amendments should be incorporated into the draft revised policy and that there were certain issues that Cabinet may wish to consider further and these are detailed below. A copy of the revised draft policy following the comments made at that meeting is attached as **Appendix One** and details of the responses received during the consultation period are attached as **Appendix Two**.

COMMENTS FROM THE LICENSING COMMITTEE

Tinted Window Requirements

4. The Members clearly supported the overriding principle of the licensing regime, namely the protection of the public. Members therefore were in agreement that windows in licensed vehicles which potentially obscured the view of passengers were not to be permitted.
5. However Members were mindful of the comments made by the trade that many current standard specification vehicles were supplied with tinted windows which under the policy proposed by officers would fail the tint test. Members were of the view that after-market tints that are applied to vehicle windows should not be permitted. However members were of the opinion that before a decision on this aspect of the policy was made further information/examples of the level of tint which exists in standard specification vehicles should be provided.
6. Officers have contacted the manufacturers of the most popular ranges of vehicles used as Hackney Carriages and Private Hire vehicles who have confirmed that the medium to large vehicles in their range are available with windows that comply with the current and proposed policy.
7. Members were supportive of the suggestion made by a member of the trade that although a percentage figure on the amount of tint permitted was useful as a starting point the final decision on vehicles in 'exceptional circumstances' should be made by an officer viewing the vehicle and determining as to whether passenger safety would be unreasonably compromised by the level of tint on the vehicle.
8. Members indicated that in their opinion grandfather rights should apply to vehicles that failed the current tint test until that vehicle is transferred or replaced.

Driver Training And Public Safety Requirements

9. The Members were supportive of the desire to ensure that all members of the licensed trade had a level of training to a nationally recognised standard. The Members did not agree with the view put forward by some members of the trade that just because a driver had been licensed for some time it meant they should be exempt from training requirements. Although the Members were supportive of a standardised training qualification being required for all licensed drivers they needed further clarification on numbers of the licensed trade who had already passed this or a similar qualification. The Members also suggested that some statistics on the numbers of the trade who would qualify for free training, i.e. those who had not previously completed a NVQ Level 2 or higher in any subject, would be helpful in determining the training requirements to be included in the policy (those who had not previously completed a NVQ Level 2 or higher would be able to access free training).
10. Unfortunately officers do not hold information on those who have completed a NVQ Level 2 in any subject as the trade has not been requested to provide it in the past, nor could the provision of such information be requested as part of the licensing process. However a number of drivers have already completed the following relevant qualifications:
 - NVQ Level 2 in Road Passenger Transport;
 - VRQ - EDI Level 2 Certificate in Road Passenger Transport (Taxi and Private Hire route);
 - VRQ - Edexcel Level 2 BTEC Award in Transporting Passengers by Taxi and Private Hire; or
 - BTEC Intermediate Award – Transporting Passengers by Taxi & Private Hire.

11. Licensing records show:

- 70 (8.8%) drivers are recorded as completing the NVQ;
- 12 (1.5%) drivers are recorded as completing the NVQ and the BTEC;
- 147 (18.4%) drivers are recorded as completing the NVQ, the VRQ and the BTEC; and
- 568 (71.3%) drivers have no qualifications recorded on their files.

A letter has been sent to all drivers seeking further information with regard to whether or not they hold the relevant qualifications or would be entitled to free training if they did not hold an NVQ level 2 qualification.

12. Members agreed that random drug testing should continue given the potential deterrent effect this could have on members of the trade who may consider the use of illegal drugs. Although officers had not indicated what was meant by testing “at a lower level” Members indicated that random testing should be less frequent than that currently undertaken. Members were also of the view that intelligence led drug testing should also be continued.
13. Members requested that on implementation of the policy review a further report be brought back to the Licensing Committee on a 6 monthly basis detailing the numbers of tests undertaken, whether they had passed or failed, whether there were false positives following lab testing and the amount of time taken to undertake the tests.
14. Random drugs testing were previously carried out on approximately 10% of the licensed drivers per year. It is suggested that this should be reduced to 5% initially and the level of random testing be reviewed by the Licensing Committee on a six monthly basis.

Accessibility

15. Members of the Committee were mindful that members of the Hackney Trade were of the view that they were bearing the brunt of ensuring that wheelchair accessible vehicles were provided. Members asked for officers to consider whether licensed private hire operators could also be required to have a proportion of wheelchair accessible vehicles dependent on the number of vehicles they operate. Members were also mindful that to treat new members of the trade differently to existing members could be construed as a bar to trade and an unlawful restraint of trade.
16. Members therefore considered that at this time that the current policy should be continued. However members requested that Officers ensure that efforts are made to undertake further consultation with disabled groups so that the requirements of the disabled community can be fully appreciated in considering any future changes to the policy. The views of the public are being sought on the services offered by the Hackney Carriage and Private Hire trade via a View Point questionnaire, this includes questions on accessibility. Should there be any change in the opinions of the disabled groups suggesting that the number of wheel chair accessible vehicles should be reduced or increased a further report outlining proposed changes to Members will be submitted.
17. Officers will obtain further legal advice with regard to requiring licensed private hire operators to have a proportion of wheelchair accessible vehicles dependent on the number of vehicles they operate. If that advice suggests that this would be possible officers will prepare proposals, consult with the trade and provide a report to Members with potential changes to the policy for their consideration.

Vehicle Emission Levels

18. Members were of the view that requiring a higher standard of emission levels would promote the green agenda and would also act as a means of ensuring that the licensed fleet was of a higher standard as older vehicles would no longer be licensed. Members took into consideration the views expressed by Members of the trade and were of the view that to implement Euro 5 standard would be a step too far at this stage.
19. Members therefore agreed that Euro 3 and Euro 4 standards should be implemented i.e. standards to go up one level from that currently required.

The European New Car Assessment Programme (Euro NCAP)

20. Members agreed that Euro NCAP standards were not required at this time but that proprietors and operators should be advised that they give consideration to Euro NCAP ratings when licensing vehicles. Members were supportive of the fact that Euro NCAP ratings did promote public safety and they hoped that the trade would also support this approach when looking to licence vehicles.

Vehicle Testing

21. Members noted that the rationale for introducing Public Authority Transport Network (PATN) guidance on the testing of vehicles was to ensure that the phrase “exceptionally well maintained” was given a context.
22. Members were supportive of this approach but noted the views of some members of the trade that they were concerned there could be overzealous interpretation of the guidance by officers. An example given was that in relation to stone chips.
23. Members were of the view that the standards would act as guidance and would not be held as inflexible hard and fast rules that could result in perfectly reasonable vehicles been held to be unsuitable. Members therefore agreed that the section on stone chips in the guidance should be removed if the guidance is implemented in the policy review.

Other Issues

24. Members had regard to a number of other issues which were raised by members of the trade, namely:-

- a) Statutory declarations – The trade questioned whether statutory declarations were still required given that the Council carries out Enhanced CRB checks.

Members were of the view that these were required as they requested applicants for new licences to give details of all past DVLA convictions some of which may no longer be on their licence. It was therefore felt that it was still reasonable to require a statutory declaration by new applicants.

- b) Medical Assessments – The trade questioned whether this requirement was necessary as they may contain highly personal and confidential information and in their view a Doctor should simply state whether the applicant or driver in question is fit to work.

Members were of the view that this requirement was reasonable and wished to maintain it in the Policy. It was noted that there had been occasions when Doctors had provided comments or information which when clarified by officers led to the Doctor confirming that the driver was not fit to hold a licence.

25. All licensed drivers in Stockton are currently subject to an enhanced criminal records bureau (CRB) test every three years. The test assists in the protection of the public when using Hackney Carriage and Private Hire Vehicles and promotes the professional standing of drivers. There are concerns that the process for obtaining a Passenger Carrying Vehicle (PCV) Driving Licence through the Driver and Vehicle Licensing Agency (DVLA) does not require a CRB test, this means that vehicles capable of carrying more than 8 passengers may be driven by people that would not meet the criteria for obtaining a hackney carriage or private hire drivers licence and passengers may not be aware of this. The monitoring of these drivers is undertaken by the Traffic Commissioners and the Vehicle and Operating Services Agency (VOSA).
26. Alex Cunningham MP has raised this issue in parliament and a copy of his questions and the answers provided are attached as **Appendix Three**

FINANCIAL IMPLICATIONS

27. There are no new financial implications from this report.

LEGAL IMPLICATIONS

28. The consolidation and review of the Hackney Carriage and Private Hire Licensing Policy will assist in ensuring that licensing application and disciplinary decision are made in an open and transparent matter and will strengthen the Councils position when dealing with any appeals. Any person aggrieved by the policy proposals has a legal right to challenge it by way of Judicial Review.

RISK ASSESSMENT

29. The implementation of the Hackney Carriage and Private Hire licensing Policy is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

30. The Hackney Carriage and Private Hire licensed vehicles and drivers have an important part to play in the provision of transport in the area. Appropriate licensing conditions assist in ensuring that the trade can play its part effectively.

Community Safety/Safer Communities

31. Appropriate licence conditions, vetting of licensees, enforcement of licensing rules and regulations ensure the safety of the general public and protect reputable traders.

Environment and Housing

32. The introduction of revised emission standards for vehicles will assist in reducing CO₂ emissions.

EQUALITIES IMPACT ASSESSMENT

33. This report has been subject to an Equality Impact Assessment and has been judged to have a positive impact.

CONSULTATION INCLUDING WARD/COUNCILLORS:

34. All licensees were informed in the 'Trade Times' newsletter of the consultation, an advert was placed in a local newspaper and details and a consultation response document were placed on the Trading Standards & Licensing website, the responses to the consultation were considered by the Licensing Committee.

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Background Papers Report to Licensing Committee 8th March 2012

Ward(s) and Ward Councillors: N/A