

CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**12 NOVEMBER 2015**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

**COUNCIL DECISION**

**Portfolio – Access, Communities & Community Safety – Lead Cabinet Member – Councillor Steven Nelson**

**PRIVATE HIRE AND HACKNEY CARRIAGE 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 review of the Private Hire and Hackney Carriage Licensing Policy. Members are requested to determine the final policy.

2. Recommendations

That Cabinet approve the Private Hire and Hackney Carriage Licensing Policy as presented in **Appendix 1**, to come into force on 1 January 2016.

3. Reasons for the Recommendations/Decision(s)

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

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, 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 and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code).

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

### **Disclosable Pecuniary Interests**

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code).

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**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 review of the Private Hire and Hackney Carriage Licensing Policy. Members are requested to determine the final policy.

**RECOMMENDATIONS**

That Cabinet approve the Private Hire and Hackney Carriage Licensing Policy as presented in **Appendix 1**.

**DETAIL**

1. The existing Private Hire and Hackney Carriage Licensing Policy was introduced on 1 May 2012. At their meeting held on 17 October 2014, the Licensing Committee agreed a draft revised policy document in respect of Private Hire and Hackney Carriage licensing for consultation with the trade and other interested parties (Minute L63/14 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 meetings on the 15 July 2015 and 20 October 2015. 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 consultation exercise and the comments made at the Licensing Committee meetings is attached as **Appendix 1**.

**Policy Review Period**

4. Currently the Policy is reviewed every 3 years. It is now recommended that this is changed to every 5 years, to bring it into line with other major policy reviews, such as the Licensing Act Policy Statement.
5. All respondents to the consultation, bar one, agreed with this proposal.

## **E-cigarettes**

6. This concerns a proposal to prevent the smoking of e-cigarettes in licensed vehicles and on operator's premises open to the public. This would be a new addition to the Policy in line with the Council's own No Smoking Policy concerning e-cigarettes. At the present time e-cigarettes are unlicensed and unregulated. Whilst not all contain nicotine, the vapour could be an annoyance or health risk and the use of e-cigarettes helps create an impression that it is acceptable to smoke, particularly to young children. Whilst the tobacco substitute benefits of e-cigarettes are acknowledged, the public perception of perceived smoking, smoking tolerance and adverse imagery outweigh the as yet to be established benefits of smoking e-cigarettes. It is recommended that e-cigarettes should not be smoked in any licensed vehicle or operator's premise which is open to the public.
7. Respondents to the consultation were broadly in favour of this proposal. If the proposal is approved, it is suggested that the Council provides adhesive stickers/signs, in line with the window stickers currently provided, to be displayed within the licensed vehicle to advise the public of this policy.

## **Wheelchair Accessible Vehicles (WAVs)**

8. The Council's aim for a number for years has been to increase the amount of wheelchair accessible vehicles on the licensed fleet. It is proposed that all new applications for hackney carriage vehicle licences shall be wheelchair accessible, until the total number of WAVs licensed reaches 25% of the total hackney carriage fleet or equates to 70 vehicles, whichever is the lower, at which time the Policy will then be reviewed. This target level for WAVs essentially remains unchanged from current requirements, with the inclusion of 'whichever is lower' in order to add clarity should the 25% quota or the 70 vehicle target be reached.
9. Whilst there was broad trade support for a mixed taxi fleet of saloon and wheelchair accessible vehicles, the majority of respondents disagreed with the current target level for wheelchair accessible vehicles. However there were few suggestions as to what the target level should be amended to. Respondents were strongly opposed to the proposal to remove the current allowance which permits existing licensed hackney carriage saloon vehicles to be replaced by another saloon vehicle.
10. The current number of WAVs within the hackney carriage fleet stands at 18 and has actually fallen from levels in 2012, when the figure was 26. In comparison to other local authorities in the north east region, the number of WAVs in Stockton is low. Figures taken from the Department of Transport's bi-annual survey carried out earlier this year showed that, in terms of hackney carriage WAVs, Stockton has the third lowest in the region in terms of number and the joint lowest in the region in terms of number per 1000 population (0.1).
11. The Government remain committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society but have issued no further guidance on the issue of improving taxi provision for people with disabilities.
12. The Licensing Committee recommend that in terms of WAVs, the current quota of 25% of the hackney carriage fleet or 70 vehicles, whichever is the lower, is maintained but that the proposal to remove the current allowance which permits existing licensed hackney carriage saloon vehicles to be replaced with another saloon vehicle, is not taken forward.
13. The Licensing Committee has considered ways to increase the number of WAVs on the licensed fleet. The cost of purchasing and running WAVs has been raised by the trade as the main reason why the number has not increased over the years. In order to alleviate these concerns, the Licensing Committee has recommended that the current restriction on the type of WAV that may be licensed be removed, so as to permit the licensing of rear loading vehicles.

14. The current policy states that WAVs must be 'side loading' and that 'rear loading' vehicles are not permitted. This was introduced a number of years ago as a response to potential safety concerns associated with the use of 'rear loaders'.
15. There is a significant difference in the purchase price and maintenance costs between side loading and rear loading vehicles, with rear loaders often being between £5,000 and £10,000 cheaper to purchase. A number of other authorities licence rear loading WAVs and the Licensing Committee balanced any potential safety concerns against the perceived benefits to the wider community in terms of reduced costs and improved accessibility. The Stockton Hackney Carriage Drivers Association was also in favour of this proposed change.

### **Vehicle Emission Levels**

16. Members of the Licensing Committee 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.
17. It is proposed that existing vehicles meet Euro 4 emission standards (current requirement is Euro 3) as a minimum by the time their licence is due for renewal in 2017. There was clear agreement from the vast majority of trade respondents to this proposal.
18. It is also proposed that new and replacement vehicles meet Euro 5 emission standards (current requirement is Euro 4). The trade requested that this aspect of the revised Policy be deferred until 2018, citing the cost implications of purchasing a Euro 5 compliant vehicle as the main drawback. However, Members were not minded to agree to this deferral and felt that the Council should where practical always seek to improve air quality.

### **Driver Training**

19. The Licensing Committee continue to be supportive of the desire to ensure that all members of the licensed trade have a level of training to a nationally recognised standard, both as a means to develop individual skills and competency and also to enhance the professional image of the trade.
20. The current requirement that completion of a specified level 2 course was required within 3 years from the grant or renewal of their next licence put those with a 3 year driver's licence in a more advantageous position than those with a 1 year licence.
21. Members have therefore recommended an amendment so that existing drivers and operators are required to have successfully completed, if they have not already, one of the level 2 courses (or equivalent) at their own expense, by the anniversary of their licence in 2017. There was widespread agreement amongst the trade for this proposal.
22. With regard to the training requirement for new drivers, it is proposed that new drivers successfully complete, if they have not already done so, one of the level 2 courses (or equivalent) within 12 months from the grant of their licence. The trade requested that this period be extended to 2 years, but Members of the Licensing Committee were not minded to agree to this and felt that a 1 year was a reasonable period in which to complete the course.
23. Members of the Licensing Committee have also had regard to a number of other issues that have emerged and/or have been raised by the trade:-

### **Accident Damaged Vehicles**

24. It is recommended that the prohibition on the licensing of category C and D accident damaged vehicles be maintained. Related to this this, there is now an additional requirement proposed, that a current HPI check or similar (i.e. dated within the within the last 28 days) is produced, at the applicant's own expense, when a vehicle application is first submitted and annually thereafter upon renewal. This is required to ascertain whether the vehicle has been accident damaged and deemed an insurance write-off because it has come to light that not all accident damage categories now show on the vehicle registration document.

### **Driving Experience**

25. It is recommended that a driver's licence will not be granted to anyone who has not held a full driving licence for a period of three years. This period has been changed from 1 year to 3 years post qualification driving experience, to bring it in line with LGA national guidelines.

### **DVLA Licence Check**

26. Following the abolition of the D9 paper counterpart, the DVLA have introduced a new system whereby the driver obtains a check code from the DVLA free of charge and shares this with the Council, so that checks can be carried out on-line to ascertain the status of the driver's DVLA licence and any related penalty points or disqualifications.

### **Safeguarding Awareness Training**

27. Following high profile child sexual exploitation cases in Rochdale and Rotherham and given the unique position that taxi drivers have within the community, a new requirement has been proposed for drivers and operators to complete safeguarding awareness training. It is recommended that existing drivers complete the course by the end of 2016 and once the safeguarding training is in place, new applicants shall have successfully completed it before the issue of their first licence.

### **Licence Duration**

28. The period for which a private hire operator's licence will be issued has been changed from 1 year to up to 5 years, following changes brought about by the Deregulation Act 2015.

### **Guidelines on the Relevance of Convictions, Cautions, Reprimands, Warnings, Complaints & Character**

29. It is proposed that the guidelines be altered to reflect national guidance issued by the LGA. The main changes are:-
- Major traffic offences – a licence will normally be refused where the applicant has been convicted of a driving offence that has resulted in a loss of life.
  - Alcohol related offences – conviction free period remains unchanged at 4 years for drink driving offence, however a licence will normally be refused if an applicant has more than one conviction for driving under the influence of alcohol. Also, new requirement for applicants to show at least 3 years free from conviction for non-driving alcohol related offences.
  - Drugs related offences – conviction free period unchanged at 5 years but a licence will normally be refused if an applicant has more than one conviction for drugs related offences. The presumption that the licence will be refused remains in place for "supply" offences.
  - Sexual and Indecency Offences – this section has been reworded so that those convictions for the more serious sexual offences will normally be refused a licence, whilst for other offences the applicant will be expected to show a period of at least

10 years free from conviction. An application will be refused if the applicant has more than one conviction for sexual offences of this type.

- Violence – the section has been reworded to specify the type of offences where the applicant will normally be refused a licence and those where the applicant will need to show periods of at least 10, 5 or 3 years free from conviction. Also a licence will normally be refused if an applicant has more than one conviction in the last ten years for an offence of a violent nature.
- Dishonesty – the section has been reworded but the minimum period of 3 years free from conviction is unchanged. However, there is a new requirement that a licence will normally be refused if an applicant has more than one conviction for a dishonesty offence in the last ten years.
- The specific section on public order offences has been removed as it is essentially now covered within the violence section, with a conviction free period of 3 years.
- There is a new section covering outstanding charges and summonses.
- There is a new section on non-conviction information.
- There is a new section on requirements once a licence has been granted.

### **Production of the Vehicle Registration Document During the Vehicle Application Process**

30. Current policy states that the vehicle registration document (V5C logbook) must be produced at the time that the vehicle application is made. After consultation with the trade, Members have recommended that applicants be allowed a period 28 days in which to produce the logbook following the issue of the licence. Members have also recommended that a review of the new process be carried out within a year of its implementation in order to be satisfied that proprietors are providing the documentation within the required 28 day period and not creating additional unnecessary follow-up work for officers.

### **FINANCIAL IMPLICATIONS**

31. There are no new financial implications arising from this report.

### **LEGAL IMPLICATIONS**

32. The consolidation and review of the Private Hire and Hackney Carriage Licensing Policy will assist in ensuring that licensing applications and disciplinary decisions are made in an open and transparent matter and will strengthen the Council's position when dealing with any appeals. Any person aggrieved by the policy proposals has a legal right of challenge by way of Judicial Review.

### **RISK ASSESSMENT**

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

### **COUNCIL PLAN THEMES**

#### **Economic Regeneration and Transport**

34. 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.

## **Environment and Housing**

35. The introduction of revised emission standards for vehicles will assist in reducing CO<sub>2</sub> emissions.

## **Safer Communities**

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

## **Children and Young People**

37. The introduction of safeguarding awareness training will help to protect children and other young people.

## **EQUALITIES IMPACT ASSESSMENT**

38. This report is not subject to an Equality Impact Assessment because an assessment was carried out at the time of the last policy review and it has been judged to have a positive impact. No remedial actions are required.

## **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 with full details and a consultation response document placed on the Trading Standards & Licensing website. The responses to the consultation were considered by the Licensing Committee.

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<b>Background Papers</b>	<b>None</b>
<b>Ward(s) and Ward Councillors:</b>	<b>Not ward related</b>