

<b>Meeting:</b>	<b>Licensing and Enforcement Committee</b>	<b>Date:</b> 13 <sup>th</sup> December 2016
<b>Subject:</b>	<b>Revised Policy and Conditions for Hackney Carriage and Private Hire Licensing</b>	
<b>Report Of:</b>	<b>Head of Public Protection</b>	
<b>Wards Affected:</b>	<b>All</b>	
<b>Key Decision:</b>	<b>Yes</b>	<b>Budget/Policy Framework: Yes</b>
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<b>Appendices:</b>	<b>1. The Hackney Carriage Rule Book</b>	
	<b>2. The Private Hire Driver and Vehicle Rule Book</b>	
	<b>3. The Private Hire Operator Rule Book</b>	
	<b>4. The Hackney Carriage and Private Hire Regulatory Guidelines</b>	
	<b>5. Responses from Mr Rodgers, Mr Yakimov, Mr Ucar, Mr Ahmed</b>	

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To present the result of the consultation feedback on the revised draft Policy and Conditions for Hackney Carriage and Private Hire Licensing.
- 1.2 To consider the consultation feedback and agree a final version of the Hackney Carriage and Private Hire Licensing for adoption by the Licensing and Enforcement Committee.

### 2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RESOLVE** that

(1) The revised Policy and conditions for Hackney Carriage and Private Hire Licensing and consultation feedback be noted by Members and adopted by the Licensing and Enforcement Committee to take immediate effect.

### 3.0 Background and Key Issues

- 3.1 Councils have the power to attach conditions to Hackney Carriage and Private Hire licences through the relevant legislation namely, The Town Police Clauses Act 1847 and The Local Government (Miscellaneous Provisions) Act 1976. There is no statutory requirement for a local authority to set hackney carriage and private hire policies, however, it is an integral part of the decision-making process, informing and guiding the decision-makers, and providing a valuable aid to consistent decision making.

- 3.2 General conditions have been applied to Hackney Carriage licences since 1972 when the Byelaws in respect of Hackney Carriages were adopted. Similar conditions have been applied to Private Hire licences since they were first issued in 1980.
- 3.3 The current conditions booklet was approved in June 2013 and has been in use since that date. These conditions have not been substantially reviewed since this time.
- 3.4 The revised draft conditions are attached as Appendix 1 - 4 of this report. The four documents that make up our full draft revised policy and conditions for Hackney Carriage and Private Hire Licensing include:
1. The Hackney Carriage Rule Book
  2. The Private Hire Driver and Vehicle Rule Book
  3. The Private Hire Operator Rule Book
  4. The Hackney Carriage and Private Hire Regulatory Guidelines
- 3.5 All the proposed amendments and revisions to the rule books (Appendices 1 - 4) are shaded in red.
- 3.6 At the Licensing and Enforcement Committee held on the 13 September 2016, members also agreed that the following amendments should be included in the final consultation document:
- Under paragraph 1.4 of the Hackney Carriage and Private Hire Driver and Vehicle Rule Book that it is amended to say 'no more than three current penalty points on their DVLA licence instead of six'
- Under paragraph 3.13 of the Hackney Carriage Driver and Vehicle Rule Book and paragraph 3.12 of the Private Hire Driver and Vehicle Rule Book 'and where appropriate the DVLA' was added.
- 3.7 The draft revised Hackney Carriage and Private Hire Policy and Conditions was consulted on from the 26 September 2016 to 21 November 2016.
- 3.8 All Hackney Carriage and Private Hire drivers and Operators were written to and invited to make a written comment. In addition, the consultation was advertised on the Council's website.
- 3.9 Four responses were received from members of the Hackney Carriage and Private Hire Trade. Copies of these responses in full can be found in Appendix 5.
- 3.10 The first response was from Mr Rodgers where he raises eight points that he would like members to consider they are summarised as follows:-
- 1.1B Surely this condition was decided years ago, why has no action been taken? ***Members are advised that the Private Hire knowledge test was introduced to address this, however feedback suggests that more needs to be done to assess the spoken ability of the driver.***
  - 1.2 Good idea but not far enough. Taxi drivers should have enough life experience before starting out. PH drivers should be 21 and HC drivers 24.

- 1.4 RIDICULOUS. The licence should be absolutely clean and a full UK licence should have been held for a minimum of 2 years. ... When PH drivers apply to be HC drivers then the application should be regarded as a new one and the clean licence requirement should again apply.
- I suggest that any driver accruing 6 DVLA licence points should be aware that further points would lead to loss/suspension of the Gloucester HC or PH licence. I also suggest that losing the DVLA driving licence after being banned for any dangerous action i.e. Reckless Driving, Drinking and Driving (or the drug equivalent) will always disqualify without any chance of re-licensing. **Members are advised that each application must be considered on its own merits taking into account the guidelines for convictions.**
- 3.18.C Nothing shall be taken as an offence where a driver shows reasonable anger when any Officer or Member fails to apply reasonable common sense or equitable fairness in decision making and it will not be an offence for a licensee to disagree in a forceful manner when political correctness is applied. In this mutuality of licensing all parties must not be constrained to agreeing just to please each other. As long as it is deemed by the trade that policy is made by officers and not committee members then there is sure to be a level of disquiet and resentment.
- 3.39 to have added "But no driver will be required to make use of either the fire extinguisher or first aid kit where such action might bring any liability or responsibility in any ensuing insurance or compensation claim." **Members are advised that there is no law that forces anyone to treat a casualty but this does not mean that they can leave a casualty when they know they are in danger, to do so may make them liable through their omission to act.**
- New vehicle should be licensed as follows - any previous months fees should be taken into account but the new licence would start in line with the date of the new vehicle. This would lead to all the tests and licence renewals being in line and effected at the same date each year. **Members are advised that the change of vehicle application allowing drivers to licence an alternative vehicle at a reduced cost helps to ensure the licence falls in line with the previous vehicle licence expiry dates. Included in the revised policy is a proposal for licensing officers to conduct a vehicle cosmetic check where the MOT does not fall in line with the vehicle inspection check.**
- More use of DVLA systems to be accessed to reduce paperwork required to be produced at renewal and to maintain proper supervision of all insurance, MOT and road tax. **Members are advised that Officers are able to check these details online, however drivers are currently required to submit the original documents on application.**

3.11 The second response was from Mr Yakimov where he would like members to consider the following:-

- In point 1.4 from ph and hc rule book (draft 2016). I don't think that the new applicants having 3, 6 or 9 points on their DVLA license should stopping them entering the business. There is not any evidence of that he/she is better or worse (safer or more dangerous) than the experienced HC or PH driver with more

or less points on their license. As the new applicants pass the knowledge and driving test and she /he is mentally and physically fit, DBS approved, there should be no reason for refusing the applicant to be granted with licence.

- Why instead of making tougher rules, increasing penalties and additional tests, don't you introduce EDUCATION course especially for PH and HC drivers. Something like the 35h for PCV and LGV drivers. From that kind of courses the drivers will be benefitted, the customers, the services dealing with a driver and GCC
- Finally I would suggest to rethink about the proposal and do a new better one in 2017. I read an article about that the DVLA stop doing the assessments for PH and HC from 31/12/16. So new rules will be needed in 2017 anyway.  
***Members are advised that the Licensing Team have found alternative providers to conduct the taxi assessment similar to the DVSA.***

3.12 The third response was from Mr Ucar. Mr Ucar's response was very positive towards the proposed changes and didn't want anything further to be added.

3.13 The fourth response was from Mr Ahmed. He would like members to consider the following:-

- Private hire drivers who apply to become hackney carriage drivers should be treated as new applicants when looking at their DVLA issued driving licences, therefore the number of points are set out in 1.4 should be used as the maximum allowable for anyone applying to become a hackney carriage driver, whether as a completely new applicant or as a private hire driver wishing to upgrade. The only exception would be if the endorsements were present when the driver gained his/her private hire licence and therefore have been previously addressed by the Licensing Committee or the Licensing Department under delegated powers.

3.14 The current rule books covering all drivers, vehicles and operators each contain a condition which allows the Council to alter the conditions upon giving 28 days notice in writing to the licence holder following a consultation process and Committee decision. This condition will remain in the revised editions.

#### **4.0 Asset Based Community Development (ABCD) Considerations**

4.1 There is a legal process that we must following when changing/amending policies. This must be done through a consultation exercise. This gives communities as much information about the changes/amendments that are being proposed. We will engage with the Partnership and Engagement Team to develop an effective communication process.

#### **5.0 Alternative Options Considered**

5.1 Members may choose to accept the suggested changes as noted on the revised document in whole, accept the revisions in part or add any of the suggested comments from the Hackney Carriage and Private Hire Trade.

5.2 Members may request additional amendments to be made to the suggested revisions which they consider suitable for the Committee to consider.

## **6.0 Reasons for Recommendations**

6.1 The Current Council policy and conditions contained in the Private Hire Rule Book, Hackney Carriage rule book and Operators rule book was approved by Members at their meeting on 18 June 2013. Since this time, Licensing Officers and elected members using the book have spotted some minor errors, elements that maybe are confusing so have taken the opportunity to tidy up the content.

## **7.0 Future Work and Conclusions**

7.1 The next review of the Policy is scheduled for 2019; however it may be amended prior to this, depending on changes to any legislative framework, national guidance or changes to internal procedures/processes.

7.2 Once the revised policy is approved and adopted by the Licensing and Enforcement Committee. Any alterations to conditions will take effect to all Hackney Carriage and Private Hire Licences, 28 days after each driver operator and vehicle proprietor has received notification from the licensing authority in writing.

7.3 Members are referred to the options at 2.1(1) of this report.

## **8.0 Financial Implications**

8.1 There are no financial implications relating to this report.

(Financial Services have been consulted in the preparation this report.)

## **9.0 Legal Implications**

9.1 The rationale behind the licensing regime is the provision of part of the public transport service that is accessible and safe, and seen to be so.

9.2 As referred to in the main body of the report, the Council has various powers for imposing reasonable licensing conditions on operators, drivers and vehicles.

9.3 A “person aggrieved” has a right of appeal to the Magistrates’ Court to challenge conditions imposed. These include persons from either trade and therefore it is important to apply conditions that are reasonable.

9.4 In reaching its decision, Members need to take account of all relevant factors and evidence, including the original Member decision and the validity of the arguments used in court to today’s situation, the feedback on the consultation, the nature of the Gloucester City area, the DfT Best Practice Guide and the legislation and the judicial authorities that have come from the Courts.

9.5 The law requires conditions to be added, or taken away from licences on the grant or the licence. There is no power to unilaterally alter the conditions during the currency of the Licence.

9.6 The situation regarding revocation of licences, and subsequent re-grant, and the potential condition allowing the amendment of existing licences is dealt with in the report.

(One Legal have been consulted in the preparation this report.)

## **10.0 Risk & Opportunity Management Implications**

10.1 The risk management implications for this report and Policies are as follows:-

- Hackney Carriage and Private Hire Policy is unfair or too prescriptive.
- Consultation inadequate.
- The risk of an appeal to Magistrates should an inappropriate or unreasonable decision be made and the potential for a financial penalty in costs awarded to be incurred.

## **11.0 People Impact Assessment (PIA):**

11.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion. A further assessment will conducted to consider any feedback from the consultation.

## **12.0 Other Corporate Implications**

### Community Safety

12.1 The basis of the guidelines is to provide a standard for licensed Private Hire and Hackney Carriage drivers to work to. The overall aim of the licensing regime is public protection.

### Sustainability

12.2 Hackney Carriage and Private Hire licensed drivers provide an important addition to the public transport provision in the City and so contribute to environmental sustainability.

### Staffing & Trade Union

12.3 None

## **Background Documents:**

Town Police and Clauses Act 1847

The Local Government (Miscellaneous Provisions) Act 1976