

# Gloucester City Council

<b>Meeting:</b>	<b>Licensing and Enforcement Committee</b>	<b>Date:</b> 11 <sup>th</sup> September 2018
<b>Subject:</b>	<b>Proposed Revised Draft Conditions for Hackney Carriage and Private Hire Licensing</b>	
<b>Report Of:</b>	<b>Head of Place</b>	
<b>Wards Affected:</b>	<b>All</b>	
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework: Yes</b>
<b>Contact Officer:</b>	<b>Darren Mountford, City Centre Improvement Officer (Licensing Lead)</b>	
	<b>Email: darren.mountford@gloucester.gov.uk Tel: 396240</b>	
<b>Appendices:</b>	<b>1. The Hackney Carriage Driver and Vehicle 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</b>	

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To seek Licensing and Enforcement Committee's approval to consult on the draft revised conditions for Hackney Carriage and Private Hire Licensing.

### 2.0 Recommendations

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

The revised draft Policy for Hackney Carriage and Private Hire Licensing is approved for an 8 week public consultation.

### 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 (Rule Books) were approved in December 2016 and have been in use since that date. These conditions have not been substantially reviewed since this time.
- 3.4 The revised draft conditions are attached at 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 Driver and Vehicle 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 A large part of the revision concerns a 'tidying up' of the original wording and the deletion of those parts which are outdated and no longer relevant.
- 3.7 Air Quality has attracted media attention over the last 18 months in the wake of the actions of Client Earth taking the British Government to the High Court in respect of the United Kingdom's pollution levels and studies suggesting that the number of premature deaths caused by pollution is on the rise. Central Government has also tasked Local Authorities to look at ways to reduce pollution within their Towns and Cities.
- 3.8 In March 2018, Cabinet received a report examining options for improving air quality across the City. Within that report it was recognised that Hackney Carriage and Private Hire vehicles were major contributors to the pollution within our City and therefore, one of the options identified was a review of Taxi Licensing Policy and this is the subject of this Report.
- 3.9 Some of the recommendations identified in the aforementioned report are not currently achievable due to the lack of available infrastructure, ie electric charging points, or the placing of an unreasonable financial burden onto the Hackney Carriage and Private Hire drivers.
- 3.10 City Centre Improvement Officers have engaged with representatives of the Hackney Carriage and Private Hire trade at Taxi and Private Hire liaison meetings to come up with an achievable change to the current vehicles. Operators were very receptive and understood that doing nothing was not an option as they were fully aware what has happened within other towns and Cities including London. The recommendations emerging from these discussions plus other proposed changes are detailed below.
- 3.10.1 **Hackney Carriage Driver and Vehicle Rule Book under new applications for drivers**
- 1.5 E Adding 'All applicants must sign up to the DBS online update service. If you've not yet applied for a DBS check, you can register for the update service using your application reference number (the 'form ref' on your application form). DBS must receive your application form within 28 days.

If you've already applied, you can register for the update service using your DBS certificate number. You must do this within 30 days of the certificate being issued'

### 3.10.2 **Under New vehicle applications**

2.2 C Adding 'Provide proof of ownership, for example bill of sale, i.e. receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants' name'

2.2 G Adding 'from an approved installer that is dated to the Councils current tariff'

### 3.10.3 **Under vehicle renewal applications**

2.3 Adding 'If the vehicle then does not meet any of the conditions in particular the age criteria then the vehicle will not be re-licensed'

### 3.10.4 **Under change of vehicle applications**

2.7 C Adding 'Provide proof of ownership, for example bill of sale, i.e. receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants name'

2.7 H Adding 'from an approved installer that is dated to the Councils current tariff'.

### 3.10.5 **Under Notification of changes**

3.16 Adding 'The driver must also notify when they change Operators or work for multiple operators and identify which Operator(s) so that the Council can update their records'

### 3.10.6 **Under Vehicle Age and Testing**

3.35 A Adding 'With Gloucester City Council or, plus also adding and must be of the latest Euro standard currently Euro 6 (these are for vehicles registered after 1<sup>st</sup> September 2015)'

3.35 B Adding 'All existing vehicles will need to be Euro 6 compliant by 2023. If a vehicle is transferred before 2023 then it will need to be replaced with a vehicle that is Euro 6 compliant.'

3.35 C Adding 'But must be of Euro 6 standard. They will not be re-licensed once they have reached its 15<sup>th</sup> anniversary from the date of first registration. Existing metropolitan type vehicles that are currently licensed and over 15 years of age will have 3 years to change the vehicle for it to become Euro 6 compliant'

### 3.10.7 **Under Meters and Fares**

3.45 Adding 'Upon installation. The Hackney Carriage licence holder must then show to the council the meter check certificate dated to the City Council's current tariff. The City Centre Improvement'

**3.11 Private Hire Driver and Vehicle Rule Book under new applications for drivers**

1.5 B Adding 'to which the driver will work for'

1.5 G Adding 'All applicants must sign up to the DBS online update service. If you've not yet applied for a DBS check, you can register for the update service using your application reference number (the 'form ref' on your application form). DBS must receive your application form within 28 days.

If you've already applied, you can register for the update service using your DBS certificate number. You must do this within 30 days of the certificate being issued'

**3.11.1 Under New vehicle applications**

2.2 C Adding 'Provide proof of ownership, for example bill of sale, i.e. receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants' name'

2.2 G Adding 'from an approved installer that is dated to the Councils current tariff'

**3.11.2 Under Renewal Applications**

2.3 Adding 'If the vehicle then does not meet any of the conditions in particular the age criteria then the vehicle will not be re-licensed'

**3.11.3 Under change of vehicle applications**

2.7 C Adding 'Provide proof of ownership, for example bill of sale, i.e. receipt for the money paid for the vehicle, invoice for the vehicle or hire purchase agreement in applicants name'

2.7 H Adding 'from an approved installer that is dated to the Councils current tariff'.

**3.11.4 Under Notification of changes**

3.15 Adding 'The driver must also notify when they change Operators or work for multiple operators and identify which Operator(s) so that the Council can update their records'

**3.11.5 Under Vehicle Age and Testing**

3.35 A Adding 'With Gloucester City Council or plus and must be of the latest Euro standard currently Euro 6 (these are for vehicles registered after 1<sup>st</sup> September 2015)'

3.35 B Adding 'All existing vehicles will need to be Euro 6 compliant by 2023. If a vehicle is transferred before 2023 then it will need to be replaced with a vehicle that is Euro 6 compliant'

### 3.11.6 **Under Meters and Fares**

- 3.44 Adding 'Upon installation. The Hackney Carriage licence holder must then show to the council the meter check certificate calibrated to the tariff as shown on their tariff card. The City Centre Improvement'

### 3.11.7 **Under Licensed Drivers**

- 4.4 Adding 'A private hire driver and vehicle is prohibited from waiting or dropping off on a designated Hackney Carriage (taxi) rank and this is an offence under The Local Government (Miscellaneous Provisions) Act'

### 3.12 **Private Hire Operator Rule Book under Smokefree Legislation**

- 3.6 Adding 'This also includes E-Cigarettes, E-Liquid and any other vaping product'

### 3.13 **Hackney Carriage and Private Hire Regulatory Guidelines**

#### 3.13.1 **Best Practice Guidance**

- 1.3 Adding 'and 'Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire trade'

#### 3.13.2 **2.3 Protecting the public**

Adding 'Case law also makes it clear the perception of hardship and that the impact of losing (or not being granted) a driver's licence on the applicant and their family is not a consideration to be taken into account when deciding whether a person is a fit and proper. (Leeds City Council v Hussain [2002] EWHC 1145 (Admin). [2003] RTR 199 and Cherwell District Council v Anwar [2011] EWHC 2943 (Admin)'

Adding under 3.3 (c):-

#### **Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving**

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed.

Adding under 3.3 (d):-

or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since completion of any sentence imposed.

Adding under 3.3 (e):-

### **Sex and indecency offences**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or any 'barred' list.

#### **(i) Exploitation**

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse.

Adding under 3.3 (f):-

### **Offences involving violence**

Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

#### **(i) Crimes resulting in death**

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### **(ii) Possession of a weapon**

Where an applicant has a conviction for possession of a weapon or any weapon related offence, a licence will not be granted at 7 years have elapsed since the completion of any sentence.

Adding under 3.3 (g):-

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Adding under 3.3 (h):-

## **Hackney Carriage and Private Hire Offences**

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### (i) Vehicle construction of use offences

Where an applicant has a conviction for any offence which involved the use of a vehicle (including Hackney Carriages or Private Hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### 3.3 (j) Offences of Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## 3.13.3 **7.2 Points**

Adding eight further offences/breach of conditions:-

‘Leaving a Hackney Carriage Vehicle unattended on a designated Hackney Carriage rank for longer than 15 minutes maximum points of 6’

‘Parking on a double yellow area, or waiting or stopping on a bus stop or private land (without the owner’s permission) unless requested by a paying customer present in the vehicle. maximum points of 6’

‘Failure to behave in a civil and orderly manner maximum points of 6’

‘Issues of cleanliness of interior or exterior of vehicle maximum points of 3’

‘Seats not cushioned or covered properly maximum points of 3’

‘A private hire vehicle waiting or entering a designated Hackney Carriage rank maximum points of 12’

‘Failure to display approved door signs maximum points of 12’

‘Leaving your Hackney Carriage or Private Hire Vehicle idling maximum points of 6’

3.14 When reviewing its Hackney Carriage and Private Hire Policy for Licensing, the Licensing Authority will consult with:-

- Hackney Carriage Drivers
- Private Hire Drivers
- Private Hire Operators

- Gloucestershire Licensing Officer Group
- Other interested Persons/Groups

3.15 There is nothing to prevent a Licensing Authority from consulting more widely than the above list. To this end the Licensing Authority will seek to identify and consult with other organisations and individuals who may be affected or have an interest in this Policy.

3.16 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 City Centre Improvement Officers frequently meet members of the Hackney Carriage and Private Hire trade to discuss any potential proposals that may arise. If members do approve the changes to the rule books then we will consult with the rest of Hackney Carriage and Private Hire trade to seek their views.

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

5.1 Alternative options will be considered where representations are raised against the proposed revisions. This policy will not take effect until after the 8 week consultation period and all feedback has been considered by the Licensing and Enforcement Committee for final approval and adoption.

5.2 The HM Government's Code of Practice states '*Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible*'. This is certainly sensible for new policies, policies of a contentious nature or where a large number of stakeholders need to be consulted. However, a shorter period is allowed where the authority can rationalise this. Given the tight timescales available to consult before the next Licensing and Enforcement Committee as well as the ability of the Licensing Team to engage stakeholders quickly, Gloucester City Council will consult on this document for a period of 8 weeks.

5.3 Members may decide not to approve the proposed changes for consultation. If this is the case then as a Council we will not be helping in reducing the air quality within the City.

#### **6.0 Reasons for Recommendations**

6.1 Reasons for the key changes are provided within paragraphs in 3.7, 3.8, 3.9 and 3.10.

6.2 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 13<sup>th</sup> December 2016. Since this time, City Centre Improvement 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.

- 6.3 The consultation will be placed on the Council’s website and a public notice will be posted at the Council Offices. Eight weeks should allow adequate time for Officers to consult with key stakeholders, consider any responses and seek further clarification (if needed) before preparing a follow up report for the next Licensing and Enforcement Committee in December 2018.

## **7.0 Future Work and Conclusions**

- 7.1 If the draft rule books are approved to go out for consultation then representatives of both the Hackney Carriage and Private Hire trades will be invited to liaison meetings and copies of the draft conditions will be shared. A consultation text message will be sent to all drivers outlining where to see the key amendments on the City Councils website. The consultation information and draft conditions will be posted on the City Council website and a public notice will be posted at the Council offices.
- 7.2 It is important that the consultation commences as soon as possible to allow for an 8 week consultation period before bringing back any feedback to the next Licensing and Enforcement Committee on 11<sup>th</sup> December 2018 for decision.
- 7.3 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.
- 7.4 The next review of the Policy is scheduled for 2021; however it may be amended prior to this, depending on changes to any legislative framework, national guidance or changes to internal procedures/processes.

## **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 regrant, 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