

# Gloucester City Council

<b>Meeting:</b>	<b>Licensing and Enforcement Committee</b>	<b>Date:</b> 11 <sup>th</sup> December 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: No</b>
<b>Contact Officer:</b>	<b>Darren Mountford, City Centre Improvement Officer (Licensing Lead)</b>	
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<b>Appendices:</b>	<b>1. The Hackney Carriage Driver and Vehicle 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 Drivers of the Hackney Carriage and Private Hire trade.</b>	

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To present the result of the consultation feedback on the revised draft Policy Conditions (Rule Books) 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 (Rule Books) were approved in December 2016 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 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 At the Licensing and Enforcement Committee held on the 11 September 2018, members approved the proposed amendments and revisions for an 8 week consultation.
- 3.7 The draft revised Hackney Carriage and Private Hire Policy and Conditions was consulted on from the 17 September 2018 to 12 November 2018
- 3.8 A consultation text message was sent to all drivers outlining where to see the key proposed amendments and revisions on the City Councils website.
- 3.9 Five responses were received from members of the Hackney Carriage and Private Hire trade within the consultation period and one response was received on 13 November a day after the consultation finished. Copies of the full responses can be found in Appendix 5.
- 3.10 The first response was from a Hackney Carriage Driver where they raised two points that they would like members to consider:-
  - Paragraph 7.2 of the Hackney Carriage and Private Hire Regulatory Guidelines under point 48 Parking on a double yellow area, 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.
  - They state "*that it goes against a previous High Court ruling which allows a Hackney Carriage to ply for hire on a double yellow where there are no loading restrictions*". The stated case in which the Hackney Carriage Driver refers to allows Hackney Carriage and Private Hire vehicles to drop off and pick up on double yellow lines and that the general rule of law is that Hackney Carriages and Private

Hire are allowed to wait for as long as necessary on a single or double yellow line for the purpose of picking up a passenger and/or their luggage. ***With this in mind I am happy to change the wording from parking to leaving your vehicle unattended on a double yellow area and to leave the rest of the wording unchanged.***

- Paragraph 7.2 of the Hackney Carriage and Private Hire Regulatory Guidelines under point 49 Failure to behave in a civil and orderly manner. The Hackney Carriage driver states *“that this is very contentious”*.

3.11 The second response was from another Hackney Carriage Driver where they also raised two points that they would like members to consider:-

- ***“With the new changes in Cheltenham going wheelchair accessible it seems the right thing to do would be to bring this to Gloucester in 2023”. At this moment in time I would not recommend that members go down this route. The reason being is that Gloucester has the right balance of saloon and wheelchair accessible Hackney Carriage vehicles and I do not propose that this should be changed.***
- ***“I agree with most of the new proposals apart from taking the purpose built taxis to fifteen years and the older ones will get three years to change them. Wouldn't it make sense to give them all until 2023 to change them as that way they would all be changed at the same time?” With the air quality issues that Local Authorities are faced with I would recommend that members approve the 15 year rule for purpose built taxis and the ones that are older than 15 years have 3 years in order to replace them.***

3.12 The third response was from a Private Hire Driver where they raised one point and would like members to consider:-

- This was about Private Hire vehicles dropping off at the Oxbode Hackney Carriage rank. I was able to answer this question; ***I stated that Private Hire vehicles have never been able to drop off on a designated Hackney Carriage rank and that this is legislation not policy. The wording within the proposed rule books just reaffirms this. Private Hire vehicles can drop off and pick up customers on double yellow lines on the opposite side to the Hackney Carriage rank.***

3.13 The fourth response was from an owner of a Private Hire Operator where they raised the same points as the Private Hire Driver above. I have responded to the owner of the Private Hire Operators questions as it was the same reply to the question above.

3.14 The fifth response was from another Private Hire Operator where they raised one point and would like members to consider:-

- ***“The new proposed changes to the car specification is putting Gloucester drivers/operators at an even further disadvantage as Gloucester has the highest standards in the county with regards age and length of service. Where Tewkesbury have very low standards”. I am able to answer this question. Gloucester City and Cheltenham have met up with Tewkesbury on a couple of occasions to discuss this very issue. Tewkesbury has taken this on board and are looking***

***to bring their standards to fall in line with Gloucester and Cheltenham in the near future.***

3.15 The Sixth response was received a day late from a Hackney Carriage Driver. It will be up to members if they wish to consider the response. They would like members to consider:-

- *“Allowing current owners of purpose built vehicles to replace their vehicles with any TX4 due to the financial and almost impossible task of finding an available Euro 6 and that they are given an upper age limit of 25 years instead of the current proposal of 15 years”.*

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. An eight week consultation took place on the proposed changes with the rest of Hackney Carriage and Private Hire trade.

#### **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 for further 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, Operators rule book and the Regulatory Guidelines 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. The changes to the vehicle specification were taken following the air quality report that went to Cabinet in March of this year.

#### **7.0 Future Work and Conclusions**

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