

BRISTOL CITY COUNCIL

PUBLIC SAFETY AND PROTECTION COMMITTEE

DATE 18 FEBRUARY 2020

Report of: Executive Director, Growth and Regeneration

Title: Introduction of a Private Hire Operator Policy and amendment to Private Hire Operator Licence conditions

Ward: Citywide

Officer Presenting Report: Emma Lake, Licensing Team Leader

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Purpose of Report

To seek permission for the Licensing and Trading Standards Manager to commence a consultation to introduce a Private Hire Operator Policy and amendments to be made to existing Private Hire Operator conditions.

RECOMMENDATION

The committee are recommended to:

- (1) consider the information within this report
- (2) delegate authority to the Licensing Manager to consult on:
 - a) the proposed Private Hire Operator Policy,
 - b) amendments to be made to existing Private Hire Operator Conditions

SUMMARY

The introduction of a Private Hire Operator Policy and amendments to conditions for Private Hire Operators will introduce a number of requirements for Operators to enhance the safety of the public. These requirements include policies in respect of training, customer service and complaints, safeguarding, Fit and Proper Person policy for staff working on behalf of the operator, information that shall be held by the Operator and information that should be disclosed to the Council.

Policy

- 1.** The Council, as the Licensing Authority under the Local Government (Miscellaneous Provisions) Act 1976, is responsible for licensing all Private Hire Operators operating within its area, pursuant to Sections 55 and 56 of the Act.
- 2.** The Council has a legal duty to ensure that all licensed operators are fit and proper persons to apply for and continue to hold such a licence. This includes the power to refuse to grant a licence and suspend or revoke a licence where a driver is not deemed or no longer deemed to be 'Fit and Proper' where they have been convicted or cautioned for criminal offences.

Consultation

3. Internal

Passenger Transport
Fleet Services
Neighbourhood Enforcement

4. External

If members are minded to approve the recommendation, an external consultation would take place in line with Department for Transport Best Practice Guidance which recommends that local authorities consult with the following parties in respect of any significant proposed changes:

- hackney carriage and private hire vehicle trades via newsletter
- trade representatives
- groups representing equalities groups
- PC Quinton, Avon and Somerset Constabulary

The consultation will be take place over an 8 week period and the consultation will be published on the Councils Consultation finder.

Context

5. The Hackney Carriage and Private Hire trades are the only parts of the public transport system that are operational 24 hours a day, 365 days a year. It is therefore important that the Council seeks to introduce a policy which requires Private Hire Operators to ensure they are operating to a minimum standard.

6. Following high profile investigations elsewhere in recent years, there has been a significant push for licensed drivers to be alive to issues such as safeguarding, child sexual exploitation and modern slavery.

7. In 2017 the Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing was established to produce recommendations both legislative and non-legislative to address identified and evidence issues in respect of taxis. One of the recommendations in the report included that Licensing Authorities require all drivers to undertake safeguarding, child sexual abuse and exploitation training, including the positive role that licensed drivers can play in spotting and reporting signs. The Council are in the process of developing a mandatory training programme for licensed drivers; however, this would not extend to employees at the base of a licensed operator. By introducing the requirement to undertake training under this policy, this would incorporate those staff members who do not hold a licence.

8. The Taxi working group established by this committee in 2018 recently considered the proposals in this report and approved that the draft policy and amended conditions be brought before committee recommending for approval for consultation.

Proposal

9. Members are being asked to support the recommendations set out in this report.

10. A consultation on the proposed policy (attached as Appendix 1) would give the opportunity, alongside the Taxi Forum, for persons within the trade to give their input on the policy.

11. Amending the current conditions attached to a licence would enable the policy and conditions to be aligned. Appendix 2 details the proposed conditions and Appendix 3 compares the existing and proposed conditions.

Other Options Considered

12. Do nothing and awaiting any potential changes to legislation, and the introduction of minimum standards, following recommendations from the Task and Finish Group report.

Risk Assessment

13. The report outlines the main options that may be considered by members.

14. The Council is under a duty to ensure that all new applicants and current

licence holders of private hire operator licenses are fit and proper persons to hold a licence, and that they do not pose a risk to members of the public.

15. The approval of this policy will ensure that a consistent standard across all licence holders is achieved.

Public Sector Equality Duties

16. Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

16. An Equalities Impact Relevance Check has been produced and is attached as Appendix 4.

Legal and Resource Implications

Legal

The proposals set out in the report are lawful.

There is no legal requirement to consult upon the proposed changes to the fit and proper person policy. However, should a consultation process be undertaken, case law guides on what constitutes lawful consultation and from this some key guiding principles have been established, in summary that those being consulted must:

- a. be provided with material upon which a decision is likely to be made;
- b. be given enough time for intelligent consideration of that material and to respond to it;
- c. be given the opportunity to make considered representations;
- d. have their representations conscientiously considered.

It is therefore important that members are satisfied that that any consultation process allows sufficient time to enable any person or body wishing to make representations to obtain relevant material, to consider it and to put their representations to the Council.

Ashley Clark, Legal Services

Financial

(a) Revenue

(b) Capital

No comments received.

Land

Not applicable

Personnel

Not applicable

Appendices

Appendix 1 – Draft Private Hire Operator Policy

Appendix 2 – Draft Private Hire Operator conditions

Appendix 3 – List of proposed changes to Private Hire Operator conditions

Appendix 4 – Equalities Impact Assessment Relevance Check

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

Disclosure & Barring Service 'DBS update service Employer Guide' (version 3.9):

<https://www.gov.uk/government/publications/dbs-update-service-employer-guide>