

**BRISTOL CITY COUNCIL**

**PUBLIC SAFETY AND PROTECTION COMMITTEE**

**20<sup>th</sup> January 2021**

**Report of:** Executive Director, Growth and Regeneration

**Title:** Revision to Hackney Carriage and Private Hire Driver and Vehicle Policies due to implementation of Department of Transport Statutory Standards

**Ward:** Citywide

**Officer Presenting Report:** Sarah Flower - Senior Licensing Officer

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**Purpose of Report**

To seek permission for the Licensing and Trading Standards Manager to commence a consultation to:

- Revise the Hackney Carriage and Private Hire Driver and Vehicle Policies due to implementation of Department of Transport Statutory Taxi and Private Hire Vehicle Standards
- Revise the Private Hire Vehicle policy in respect of tints in Private Hire Vehicles
- Introduce a Private Hire Operator Policy and amend the Private Hire Operator Licence conditions
- Proposal to Introduce Mandatory Card and other instantaneous Payment Facilities in Hackney Carriages
- Revise the Private Hire Vehicle Policy and Private Hire Vehicle Inspections Standard Policy

**RECOMMENDATION**

The committee are recommended to:

- (1) consider the information within this report and;
- (2) to delegate authority to the Licensing Manager to consult on the proposals as above
- (3) to bring a report back to committee to consider the responses to the consultation and any further proposed changes.

**Summary**

The Department of Transport (DfT) has published detailed Statutory Taxi and Private Hire Vehicle Standards to regulate the hackney carriage and private hire sector. The DfT statutory standards are available at

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf) .

It is clear in the standards that the Council must have regard to them and that any failure to adopt these standards would need to be justified with clear reasons for this which would be defensible if challenged.

The DfT expects these standards to be implemented unless there is a compelling reason not to do so. When exercising any relevant functions, the Licensing Authority should now have regard to the Standards.

**Appendix 1** summarises the statutory standards and provides comments on the next steps. **Appendix 2** provides a table detailing the main policy changes that officers have identified, the current policy and the proposed changes.

The DBS update service is a service that enables applicants to keep their DBS certificates up to date online and allows local authorities (if given consent by the applicant) to check if there has been a change to the status of a DBS certificate online. In accordance with the Council's Fit and Proper Person Policy for Hackney Carriage and Private Hire Drivers, all hackney carriage and private hire drivers currently need to undertake an enhanced check with the DBS every three years to check for any criminal behaviour that could affect their ability to hold a licence. Officers recommend amending the policy to make it mandatory for all drivers to sign up to the online service prior to the grant of a new licence or on renewal. Officers have drafted policy amendments to reflect this which includes amendments to the policy in respect of the requirements for expired licences.

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.

At present there is no policy in place to govern the content of mandatory card readers. The purpose of this report is for members to approve to consult on a policy for a mandatory card payment facility on all licensed Hackney carriage vehicles. Associated changes are also proposed to the respective vehicle conditions and policies as outlined below which will be added to the current policy.

The proposal is to change the private hire vehicle inspection standard to read as follows in respect of tints

#### 6.5 Window Glass or other transparent material

h. The light transmitted through the windscreen must be at least 75%.

The front side windows must allow at least 70% of light to be transmitted through them.

Tinted glass windows are permissible to the rear side windows provided that they are only those supplied as standard by the original vehicle manufacturer and comply with current vehicle Construction and Use Regulations.

Reason for rejection

h. The required percentage of light is not transmitted through the window.

Tinted films to the vehicle windows are not permitted

## **Policy**

**1.** The Council, as the Licensing Authority under the Local Government (Miscellaneous Provisions) Act 1976, is responsible for licensing all Hackney Carriage and Private Hire Drivers operating within its area, pursuant to Sections 51, 57 and 59 of the Act.

**2.** This policy is intended to provide how the Council will deal with the licensing of hackney carriage and private hire drivers and private hire vehicle operators. The Council, will determine each application on its merits, but will place public safety above all other considerations.

**3.** The Council has a legal duty to ensure that all licensed drivers, proprietors and 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 licence holder is not deemed or no longer deemed to be 'Fit and Proper' where they have been convicted of or cautioned for criminal and road traffic offences or where offending behaviour is proved to the satisfaction of the Council.

## **Consultation**

### **4. Internal**

- Passenger Transport
- Neighbourhood Enforcement Team
- Safeguarding Team

### **5. 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:

- other local authorities and partner agencies,
- taxi trade representatives,
- groups representing equalities groups,
- Avon and Somerset Constabulary,
- Organisations with a wider transport interest,
- Night-time economy groups,
- West of England Combined Authority.
- Chamber of Commerce

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

## Context

**6.** 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 regularly reviews its policies to ensure it is effective and fit for purpose.

**7.** The DfT Standards recommend that a cohesive policy document brings together all taxi and PHV licensing procedures including the fitness and propriety test, licence conditions and vehicle standards be in place.

**8.** Bristol City Council already has policies in place which covers many of the recommendations within the Standards. However, these have been amended and consolidated into one policy, a copy of the draft policy is attached as **Appendix 3** and **Appendix 2** provides a summary of the current and proposed policy changes.

## Proposal

**9.** Members are being asked to support the recommendations set out in this report and appendices as the DfT recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.

**10.** Amending the current conditions attached to a licence would enable the policy and conditions to be aligned.

## Other Options Considered

**11.** Do nothing and await changes to legislation. However the proposals detailed in this report would meet the Councils statutory requirement to ensure drivers are 'fit and proper' and would be in line with the recommendations from the TFG report, the government's response to the report and internal audits recommendations.

## Risk Assessment

**12.** The report and appendices outlines the main options that may be considered by members and the possible implications of policy changes.

**13.** The Council is under a duty to ensure that all new applicants and current licence holders of private hire and hackney carriage driver licenses are fit and proper persons to hold a licence and that they do not pose a risk to any fare paying passengers or other members of the public.

**14.** The approval of this policy will ensure that all relevant checks will continue to be conducted in relation to any criminal conviction or caution, and that a consistent standard across all licence holders is achieved.

## Public Sector Equality Duties

**21a.** 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.

**21b.** 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. The DfT Statutory Taxi and Private Hire Vehicle Standards have statutory force and the Council must have regard to the recommendations contained therein unless there are compelling reasons not to do so. The DfT recommends that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. The new draft policy therefore aims to consolidate and update all existing policies and to bring them into line with the Statutory standards.

As far as the proposed consultation is concerned, case law guides on what constitutes lawful consultation and from this some key guiding principles have been established. In summary those being consulted on this policy 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 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.

**Financial**  
**(a) Revenue**

**(b) Capital**

Not applicable

**Land**

Not applicable

**Personnel**

Not applicable

**Appendices**

Appendix 1 – Summarised statutory Taxi & Private Hire Vehicle Standards and next steps

Appendix 2 – Table of Proposed Changes to Taxi Policies

Appendix 3 – Draft Hackney Carriage and Private Hire Licensing Policy 2021-2026

Appendix 4 - Equalities Impact Assessment

**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>