

BRISTOL CITY COUNCIL

PUBLIC SAFETY AND PROTECTION COMMITTEE

27 July 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 for Statutory Taxi and Private Hire Vehicle Standards

Ward: Citywide

Officer Presenting Report: Carl Knights, Senior Licensing Officer

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RECOMMENDATION

The committee are recommended to:

(1) consider the information within this report and;

(2) Approve the following proposals;

- a. Introduction of a Private Hire Operator Policy and amendments to the Private Hire Operator Licence conditions
- b. Proposal to Introduce Mandatory Card and other instantaneous Payment Facilities in Hackney carriages
- c. Amendments to the current:
 - i. Private Hire Vehicle Policy; with the exception of tint proposals; see (3) below
 - ii. Hackney Carriage Vehicle Policy
 - iii. Private hire vehicle licence conditions
 - iv. Hackney carriage licence conditions
 - v. Hackney Carriage and Private Hire Vehicles Inspection Standards
 - vi. Guidelines Relating to the Relevance of Criminal Behaviour
 - vii. Fit and Proper Person Policy

And incorporation of the above into a single policy document entitled "Hackney Carriage and Private Hire Licensing Policy"

(3) Consider the consultation comments and Equality Impact Assessment in relation to the proposal to relax the Private Hire Vehicle policy in respect of tints in private hire vehicles and determine the appropriate

course of action.

Summary

1. The Council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976. The Council is allowed to develop and implement a policy in respect of exercising its functions under the Act.
2. Over recent years it has been recognised by the government that the existing regulatory framework for Hackney carriage and private hire licensing was not fit for purpose. Events in Rotherham, Rochdale and Oxford in particular demonstrated robust changes were needed with regard to safeguarding. In recognition of this the Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing was established in 2017 whose aim was to produce recommendations both legislative and non-legislative to address identified and evidence issues in respect of Hackney carriage and private hire licensing.
3. In February 2019 the government responded to the TFG report and in July 2020 the Secretary of State for Transport published the Statutory Taxi and Private Hire Vehicle Standards under powers contained within section 177(1) of the Policing and Crime Act 2017. The Department for Transport (DfT) standards are statutory guidance on exercising Hackney carriage and private hire licensing functions. The DfT standards are available [here](#). The Council must have regard to the standards and the DfT expects the recommendations in the standards to be implemented unless there is a compelling local reason not to.
4. In addition requests were received from the trade to review the policy with respect to permitting tinted windows on the rear passenger windows of private hire vehicles and the introduction of mandatory card reader and/ other instantaneous Payment Facilities in Hackney carriages.

The significant issues in the report are

- Introduction of a Private Hire Operator Policy and amendments to the Private Hire Operator Licence conditions
- Proposal to Introduce Mandatory Card and other instantaneous Payment Facilities in Hackney carriages
- Amendments to the current:
 - Private Hire Vehicle Policy; with the exception of tint proposals; see (3) below

- Hackney Carriage Vehicle Policy
- Private hire vehicle licence conditions
- Hackney carriage licence conditions
- Hackney Carriage and Private Hire Vehicles Inspection Standards
- Guidelines Relating to the Relevance of Criminal Behaviour
- Fit and Proper Person Policy

And incorporation of the above into a single policy document entitled Hackney Carriage and Private Hire Licensing Policy (**Appendix A**)

- Consider the consultation comments and Equality Impact Assessment in relation to the proposal to relax the Private Hire Vehicle policy in respect of tints in private hire vehicles and determine the appropriate course of action.

Policy

5. The Council, as the Licensing Authority under the Local Government (Miscellaneous Provisions) Act 1976, is responsible for the licensing of Hackney carriage and private hire drivers, vehicles, and private hire operators within its area.
6. As set out above the Council is permitted to develop a policy which sets out how the Council will deal with the administration of each type of licence. As a result of the DfT Statutory Taxi and Private Hire Vehicle Standards, and requests from the trade, amendments to the Council's existing policy are proposed. The Council will always determine each application on its merits with public safety being the overriding concern.
7. The Council has a legal duty to ensure that all licensed drivers, proprietors and operators are fit and proper persons to hold a licence. This includes the power to refuse to grant a licence and suspend or revoke a licence where an applicant, or licence holder, is not deemed, or no longer deemed, to be 'fit and proper'. This can occur 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.

Context

8. The Hackney carriage and private hire trade 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.
9. The statutory standards recommend that a cohesive policy document brings together all Hackney carriage and private hire licensing

procedures including the fitness and propriety test, licence conditions and vehicle standards.

10. The Council already has policies in place which cover many of the recommendations within the standards. These have now been amended where necessary and consolidated into one policy document. A copy of the draft policy, entitled “Hackney Carriage and Private Hire Licensing Policy” is attached as **Appendix A**. **Appendix B** provides a summary of the current policy and details of all proposed changes.
11. As detailed above the DfT expects the statutory standards to be implemented unless there is a compelling local reason not to do so. When exercising any relevant functions section 177(4) of the Policing and Crime Act 2017 provides that the Licensing Authority “must have regard” to the standards.
12. In January 2018 members of this committee established a working group consisting of elected members and officers to consider the recent national reviews of legislation and determine if any amendments to Council’s policies were required. The working group also considered the statutory standards and reviewed the Council’s policies relating to the Hackney carriage and private hire trade that were not covered by the statutory standards, including requests from the trade
13. The working group’s proposals were presented to the members of this committee on 20 January 2021. Approval was granted for a public consultation on the proposed changes which took place between 16 February 2021 and 21 March 2021.
14. Results of the consultation and analysis are available at **Appendix C**. 596 responses were received to the consultation survey, of those 368 responded to all questions. A number of written responses were also received; these are also available at **Appendix C**.
15. 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.
16. The request to make instantaneous payment facilities/card readers mandatory in Hackney carriages was submitted by trade representatives. The proposal would enable members of the public to use Hackney carriages without the need to carry cash. This will increase public safety as members of the public will not have to ensure they carry cash, or go to a cash point perhaps late at night. This may particularly benefit disabled passengers. It will also assist the Hackney carriage trade in competing with app based companies which have become increasingly popular in recent years.

17. The incorporation of all existing policies, guidelines and standards into a single policy document entitled “Hackney Carriage and Private Hire Licensing Policy” will comply with the requirement set out in the statutory standards. **Appendix B** sets out the amendments to each policy. Amendments have been recommended as a result of the statutory standards, the removal of outdated requirements, or to enhance the safety of the travelling public.
18. The consultation sought feedback on a proposal to amend the Hackney Carriage and Private Hire Vehicles Inspection Standards (in relation to private hire vehicles only) with regard to tints. Many vehicles are fitted with tints in the rear side passenger windows as standard. The current policy requires these to be replaced if they do not meet the inspection standards (see below). This places a financial burden on the trade. The proposal was to amend the inspection standards from:
- “6.5 Window Glass or other transparent material...*
- ...Rear side windows must allow at least 65% of light to be transmitted through them...”*
- To:
- “...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 or any subsequent replacement.*
- Tinted films or glass applied retrospectively to the vehicle windows are not permitted...”*
19. As detailed at **Appendix C** in general, there was a high level of agreement with the proposed changes to the policy. There was often a significant difference between the levels of agreement between the public and members of the trade. In most cases the public were more likely to agree or strongly agree with the proposal, except in the case of tints, where the public were much more likely to disagree.
20. With regard to tints 70% of members of the trade were supportive, with only 15% disagreeing. Conversely, of the public only 40% agreed, and 24% disagreed. There is a large portion of responses from members of the public, 35%, who neither agreed nor disagreed.
21. As with the question responses, there was a big split between comments made by members of the trade and those made by non-members of the trade. The comments made by members of the trade were, in general supportive of the change. There was a difference in

opinion over whether tints should have to be put in place by the manufacturer or whether to allow film tints. Conversely, there were many comments that were against tints from members of the public, a Councillor and one trade member. They argued against tints for the reasons of public safety, especially with respect to females. One respondent also mentioned the issues that partially sighted passengers may have if they are unable to see out of the windows.

22. Comments received as part of the consultation also suggested a number of amendments to the policy including:

- a. Trade request to permit tinted windows (manufactory fitted) on Hackney carriages
- b. Clarification that the proposed mandatory safeguarding training should also cover the sexual exploitation of adults by recognising that passengers may be vulnerable to opportunistic sexual offences.
- c. That Vaping and use of Heated Tobacco (IQOS and hybrid) products be prohibited in Hackney carriages and private hire vehicles way of the imposition of additional licence conditions.

Full details of all proposed changes can be found at **Appendix B**. Comments can be viewed at **Appendix C**.

Consultation

23. **Internal**

- Passenger Transport
- Neighbourhood Enforcement Team
- Legal Services

24. **External**

External consultation took place between 16 February 2021 and 21 March 2021. The survey was published on the Council's Consultation and Engagement Hub, accessible to all members of the public, and advertised via social media channels. In addition to this the following parties were also notified:

- Hackney carriage and private hire licence holders,
- Equalities groups,
- Avon and Somerset Constabulary,
- Bristol City Council Councillors
- Partner agencies,

Members of the trade were also invited to briefing sessions so the proposals could be explained in further detail.

Proposal

25. As detailed above the DfT recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on Hackney carriage and private hire licensing. Members are recommended to approve the attached Hackney Carriage and Private Hire Licensing Policy (**Appendix A**). The policy incorporates the changes recommended by the Statutory Taxi and Private Hire Vehicle Standards along with changes requested by the trade in respect of mandatory card readers and other amendments as a result of information received during the consultation process.
26. Members are recommended to consider the consultation comments and Equality Impact Assessment in relation to the proposal to relax the private hire vehicle policy in respect of tints in private hire vehicles (and request for Hackney carriages to benefit from the same amendment) and determine the appropriate course of action.

Other Options Considered

27. Make no changes to the existing policy. However as detailed above the DfT expects the recommendations in the Statutory Taxi and Private Hire Vehicle Standards to be implemented unless there is a compelling local reason not to. With regard to the other proposals members could decide to take no action. However the proposals are aimed to improve public safety and, with the exception of the tint relaxation (private hire and Hackney carriage), it is recommended they are approved. Members are requested to consider the comments received regarding tints and determine the appropriate course of action in respect of both private hire vehicles and Hackney carriages.

Risk Assessment

The risks associated with the implementation of the recommendations of the report							
No	RISK	INHERENT RISK		RISK CONTROL MEASURES	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
	Threat to achievement of the key objectives of the report	Impact	Probability	Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation).	Impact	Probability	
1	Any policy decision is open to challenge	Low	Low	Officers have consulted with key representatives of the taxi trade and other stakeholders.	Low	Low	

The risks associated with <u>not</u> implementing the recommendations of the report							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK (Before controls)		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation).	CURRENT RISK (After controls)		RISK OWNER
		Impact	Probability		Impact	Probability	
1	Failure to amend the policy as recommended could lead to legal challenges, costs to the council and adversely affect the council's reputation and relationship with the trade.	Medium	Medium	Determine and publish the revised policies	Low	Low	

Equalities Impact Assessment

28. An Equality Impact Assessment has been produced and is attached as **Appendix D**.

Public Sector Equality Duties

29. 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.

Legal and Resource Implications

Legal

The proposals set out in the report are lawful. As stated in the main body of the report, the Department for Transport (DfT) standards are statutory guidance meaning that the Council must have regard to and adopt them unless there are compelling local reasons not to do so. The DfT also expects the recommendations in the standards to be implemented and incorporated in one policy document.

A consultation process has been undertaken and 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 the consultation process has allowed 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.

Lynne Harvey & Kate Burnham-Davies
Regulatory Lawyers

Financial

There are no direct financial implications expected as a direct consequence of approving the Taxi Policy, other than any costs of publishing and communicating the details of the new policy, which will be

met from existing Licensing Service budgets. Any increase in operational demand from enforcing this policy will be managed from within existing resources.

(Financial advice provided by

Kayode Olagundoye, Interim Finance Business Partner, Growth and Regeneration, 15/07/2021)

Land

Not applicable

Personnel

There are no anticipated HR implications.

Comments provided by HR Business Partner, Growth and Regeneration.

Appendices

Appendix A	Draft Hackney Carriage and Private Hire Licensing Policy 2021-2026
Appendix B	Table of Proposed Changes to Taxi Policies
Appendix C	Consultation analysis
Appendix D	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>

Statutory Taxi and Private Hire Vehicle Standards:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf