

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

15th March 2021

**DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY
APPROVAL TO COMMENCE CONSULTATION**

Relevant Portfolio Holder	Councillor A Kent
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

A review of all of the Council’s hackney carriage and private hire licensing policies has been undertaken in response to the publication by the Department for Transport of guidance under section 177 of the Policing and Crime Act 2017 entitled “Statutory Taxi & Private Hire Standards.” This work has culminated in the production of a new draft hackney carriage and private hire licensing policy, which officers believe should now be consulted upon.

2. RECOMMENDATIONS

That the Committee note the content of the report and authorise officers to undertake consultation with relevant stakeholders on the draft Hackney Carriage and Private Hire Licensing Policy shown at Appendix 2.

3. KEY ISSUES

Financial Implications

- 3.1 The costs associated with carrying out the consultation will be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Statutory Taxi and Private Hire Standards have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017.

- 3.3 Section 177(4) of the Policing and Crime Act 2017 states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.
- 3.4 Proper consultation on any proposals to amend the Council's policies minimises the risk of legal challenge if the proposals are subsequently implemented.

Service / Operational Implications

- 3.5 Section 177 of the Policing and Crime Act 2017 enabled the Secretary of State to issue statutory guidance to taxi and private hire licensing authorities as to how their licensing functions may be exercised so as to protect children and vulnerable individuals who are 18 and over from harm.
- 3.6 The legislation was to a large extent prompted by the Jay and Casey reports on child sexual abuse and exploitation (CSAE) in Rotherham. Both of these reports highlighted examples of taxi / private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused or sexually exploited.
- 3.7 A public consultation on draft statutory guidance ran between 12 February 2019 and 22 April 2019. Following lengthy consideration of the consultation responses, the Department for Transport published guidance entitled Statutory Taxi & Private Hire Standards (hereafter referred to as "the Standards") on 21 July 2020. A copy of the Standards can be seen at **Appendix 1**.
- 3.8 The Standards contains a number of recommendations regarding matters connected to taxi and private hire licensing functions including:
- Criminology checks for licence holders
 - Working with the Police
 - Sharing information with other licensing authorities
 - Dealing with complaints about drivers and operators
 - Training for Members
 - Criminal convictions and rehabilitation of offenders
 - Safeguarding awareness advice, guidance and training for drivers
 - Language proficiency
 - CCTV in licensed vehicles
 - Regulation of booking and dispatch staff
 - Record keeping

3.9 The Statutory Standards state that:

“Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups.

The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.”

- 3.10 It is clear therefore that it is the desire of the Government to see consistent standards applied by taxi and private hire licensing authorities across the country.
- 3.11 On 21st September 2020, Members of the Licensing Committee received a report regarding the Statutory Standards and were asked to note that officers would now begin a review of all of the Council’s hackney carriage and private hire licensing policies in light of them.
- 3.12 This review has been undertaken and has led to the production of a new draft Hackney Carriage and Private Hire Licensing Policy, which can be seen at **Appendix 2**.
- 3.13 The draft Hackney Carriage and Private Hire Licensing Policy is based on a template that has been created with a view to each of the six district Councils in Worcestershire adopting new policy statements that are substantially similar to one another, particularly in relation to the licensing of hackney carriage and private hire drivers and private hire operators.
- 3.14 Whilst a large number of the recommendations set out in the statutory standards are already met within the Council’s existing policies, the draft policy has been drafted so as to incorporate any of the recommendations that were not already being followed.
- 3.15 The Department’s recommended guidelines on the assessment of previous convictions have been inserted into the draft policy with a view to them being adopted without variation.
- 3.16 The draft policy explicitly states that the Council will not licence any individual who appears on either the children or adult barred lists maintained by the Disclosure and Barring Service (DBS)

- 3.17 The draft policy also states that the Council will make referrals to the DBS where a decision is taken to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult.
- 3.18 The draft policy also commits the Council to using the national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as "NR3"). As well as checking details of new applicants against NR3, the draft policy states that the Council will submit information to NR3 of any decisions taken to refuse or revoke a driver licence.
- 3.19 The statutory standards include recommendations regarding requiring applicants for licences to undertake safeguarding training and to demonstrate that they have suitable proficiency in both oral and written English.
- 3.20 Further to these recommendations, the draft policy contains a requirement for new applicants to obtain the "Worcestershire Taxi and Private Hire Competency Certificate." To obtain this certificate an applicant for a licence will need to demonstrate they possess a suitable level of skills, knowledge and understanding in a number of areas including safeguarding and English language proficiency.
- 3.21 To support this, officers are currently working to find and approve a suitably qualified and experienced training provider to deliver the Worcestershire Taxi and Private Hire Competency Certificate. It is hoped that requiring applicants to obtain this qualification is something that will be adopted by all six district Councils in Worcestershire as they revise their policies in response to the Statutory Standards.
- 3.22 In line with recommendations in the Statutory Standards, the draft policy also contains more robust licence conditions applicable to those the Council authorises to operate private hire vehicles. These include conditions relating to record keeping and requirements to undertake criminality checks on their booking and despatch staff.
- 3.23 The draft policy also introduces a requirement for those applying for a licence to use a vehicle as either a hackney carriage or private hire vehicle to provide a basic criminal record certificate, unless they are already licensed by the Council to drive hackney carriage and/or private hire vehicles.

- 3.24 The Statutory Standards say that licensing authorities should “consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers.”
- 3.25 Therefore officers are now asking the Licensing Committee to approve the draft Hackney Carriage and Private Hire Licensing Policy at **Appendix 2** for the purposes of consultation with relevant stakeholders.
- 3.26 The consultation will ask respondents if they can provide any evidence of a compelling local reason why the Council should not implement those proposed changes to the Council’s policy that follow recommendations contained in the Statutory Standards.
- 3.27 Respondents will also be invited to make comment on anything else contained in the draft Hackney Carriage and Private Hire Licensing Policy, including the standard conditions that the Council will attach to licences.
- 3.28 The results of this consultation will be reported back to Members for consideration at a future meeting of the Licensing Committee before any decisions are taken about adopting a new Hackney Carriage and Private Hire Licensing Policy.

4. RISK MANAGEMENT

- 4.1 Failure to have regard to the guidance issued under section 177 would leave the Council in breach of a legal duty to do so.
- 4.2 Although it remains the case that the Council must reach its own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the Standards without sufficient justification could be detrimental to the authority’s defence.

5. APPENDICES

Appendix 1 – Department for Transport guidance entitled “Statutory Taxi & Private Hire Vehicle Standards”

Appendix 2 – Draft Hackney Carriage and Private Hire Licensing Policy

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