

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

14th March 2022

**DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY
CONSIDERATION OF CONSULTATION RESPONSES**

| | |
|----------------------------|--|
| Relevant Portfolio Holder | Councillor P Thomas |
| 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 was 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 culminated in the production of a new draft hackney carriage and private hire licensing policy, which has been subject to consultation with relevant stakeholders. The responses received during this consultation now need to be considered.

2. RECOMMENDATIONS

That the Committee have regard to the responses received during the consultation and RESOLVE to approve the draft Hackney Carriage and Private Hire Licensing Policy at Appendix 1 to take effect on 1st September 2022.

3. KEY ISSUES

Financial Implications

- 3.1 The costs associated with carrying out the consultation were 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.
- 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 15th March 2021, Members of the Licensing Committee were presented with a copy of a draft Hackney Carriage and Private Hire Licensing Policy for consideration. A copy of the draft policy can be seen at **Appendix 1**.
- 3.12 The draft policy was based on a template that had 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.
- 3.13 Whilst a large number of the recommendations set out in the statutory standards were already met within the Council’s existing policies, the draft policy had been drafted so as to incorporate any of the recommendations that were not already being followed.
- 3.14 Members resolved that officers should undertake consultation on the draft policy that was presented to them at the Licensing Committee meeting on 15th March 2021.
- 3.15 Initial consultation was undertaken over a 12-week period between June and September 2021. The consultation was then re-opened for a 7-week period between December 2021 and January 2022 to provide a further opportunity for stakeholders to respond to the consultation.
- 3.16 Consultation was undertaken via a survey that was available to complete online. Paper versions of the consultation survey were also made available for those that wished to respond in that way.

- 3.17 Information on the consultation, along with details on how to respond were sent to:
- Those licensed by Bromsgrove District Council to drive or use a vehicle as a hackney carriage or private hire vehicle
 - Those licensed by Bromsgrove District Council to operate private hire vehicles
 - National Private Hire and Taxi Association
 - Licensed Private Hire Car Association
 - West Mercia Police
 - Safer Roads Partnership
 - West Mercia Police and Crime Commissioner
 - Relevant contacts at Worcestershire County Council, including those responsible for safeguarding children and adults and arranging home to school transport
 - Relevant interest groups, including those that represent people with disabilities and the elderly
 - Relevant local business groups
 - Elected Members
 - Parish Councils
- 3.18 The consultation was also available on the Council's website and was promoted via the Council's Communications Team, including via the Council's social media channels.
- 3.19 The questions asked of those consulted on the draft policy can be seen in the consultation document at **Appendix 2**.
- 3.20 A summary of the responses received to each of these questions can be seen at **Appendix 3**.
- 3.21 Officers have reviewed these responses and do not consider that there are any compelling local reasons why those elements of the draft policy that are based on the recommendations in the statutory standards should not be implemented.
- 3.22 A number of other comments and observations were received during the consultation exercise and officers have considered these and propose responses that are set out in the table below.

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

14th March 2022

| Comment / Observation | Officer's Response |
|--|--|
| Need to specify that safeguarding training covers safeguarding of adults and children | In line with the statutory standards, officers will ensure that the safeguarding training implemented relates to the safeguarding of children and vulnerable adults. |
| Concerns over level of English language proficiency that will be required from drivers | The level of English language proficiency that will be required will be that which is suitable and sufficient to the role being performed, this will be guided by the relevant part of the statutory standards. |
| Suggestions as to content of training for drivers in respect of assisting those with disabilities | These suggestions will be discussed with the training provider appointed to deliver the Worcestershire Taxi and Private Hire Competency Certificate with a view to them being incorporated in the training delivered. This does require any amendment to the text of the draft policy. |
| The changes proposed to the Council's policy in circumstances where a licence holder needs to change their vehicle will cause an unnecessary financial burden on licence holders | The draft policy sets out the Council's approach to refunding licence fees paid when a licence is surrendered prior to its expiry. This approach will help offset the additional costs that would be incurred as a result of the change in policy in respect of licence holders changing their vehicles. |

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

14th March 2022

| Comment / Observation | Officer's Response |
|--|--|
| Concern about proposal to issue 5-year operator licences and suggestion that a 3 year licence should be issued instead. | <p>Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 says the following in respect of private hire operator licences:</p> <p><i>“Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”</i></p> <p>The proposal in the draft policy is therefore in line with legislative requirements.</p> |
| Concerns about requirement to retain insurance documents for 12 months from the date of expiry. | Officers do not consider this to be an unreasonable or disproportionate requirement to include in licence conditions. |
| When a private hire vehicle licence holder is exempted from the requirement to display an external licence plate, the information on the plate should be displayed internally in a manner visible to passengers. | This information will be required to be displayed internally as private hire vehicle licence conditions requiring the display of an internal licence plate will still apply even if an exemption from displaying the external licence plate is provided to a licence holder. |
| Vehicle proprietors and private hire operators should be subject to an enhanced criminal record check rather than a basic one. | Legislation does not allow the Council to undertake enhanced checks on vehicle proprietors and private hire operators, only those that hold or apply for driver licences. |

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

14th March 2022

| Comment / Observation | Officer's Response |
|---|--|
| <p>Is there an opportunity to amend standards and age limits in relation to electric vehicles?</p> | <p>Whilst this was not part of the current policy consultation, this is something the Council could include in its future work programme.</p> |
| <p>The practical driving proficiency assessment should cover "eco-driving" to encourage driving in a way that reduces fuel consumption and produces lower carbon emissions.</p> | <p>This suggestion will be discussed with the training provider appointed to deliver the Worcestershire Taxi and Private Hire Competency Certificate with a view to them being incorporated in the training delivered.</p> <p>This does require any amendment to the text of the draft policy.</p> |
| <p>It should be clearly stated that failure to carry an assistance dog without the requisite medical exemption will result in immediate suspension or revocation of a driver's licence.</p> | <p>This matter is taken extremely seriously by officers and all allegations of this nature will be investigated. Anyone found guilty of refusing to carry an assistance dog would be referred to a Licensing Sub-Committee so that consideration can be given to the suspension or revocation of their licence. Such consideration will include whether any suspension or revocation should have immediate effect.</p> |
| <p>Recommend that Bromsgrove District Council works together in conjunction with assistance dog owners to ensure requirements are being complied with.</p> | <p>Whilst not something that needs to be set out in the Council's policies, officers will explore working with the Guide Dogs charity and others to ensure drivers and operators are meeting their legal requirements in respect of transporting assistance dogs.</p> |

- 3.23 Having considered the responses and comments received during the consultation exercise, officers do not believe that any amendments to the text of the draft policy are required prior to implementation.
- 3.24 Members are therefore asked to have regard to the responses received during this consultation exercise and to approve the draft Hackney Carriage and Private Hire Licensing Policy at **Appendix 1** to take effect on 1st September 2022.

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 - Draft Hackney Carriage and Private Hire Licensing Policy
- Appendix 2 – Consultation questions
- Appendix 3 – Consultation Responses Summary

AUTHOR OF REPORT

- Name: Dave Etheridge – Principal Licensing Officer
Worcestershire Regulatory Services
- E Mail: dave.etheridge@worcsregservices.gov.uk
- Tel: (01905) 822799