

Licensing Committee Report

Ward(s) affected: All

Report of the Licensing Team Leader

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Taxi and Private Hire Policy 2015-20 – Review

Executive Summary

This report seeks the views of the Licensing Committee on the strategic direction for the proposed review of the Taxi and Private Hire Licensing Policy in 2020.

Recommendation to Licensing Committee

That the Licensing Committee consider the proposals in this report and recommends the following areas of Policy are incorporated within the Council's Taxi and Private Hire Policy to be consulted upon:

Measures to improve driver standards through:

- requiring drivers to sign up to the Disclosure and Barring Service update service and a check every 6 months
- adopting a robust previous convictions policy
- a code of conduct for drivers

Measures to improve vehicle standards through:

- requiring CCTV in licensed vehicles
- emissions standards for licensed vehicles
- a suitability test for vehicle proprietors

Measures to improve private hire operator standards through:

- Improved staff training and vetting
- Improved procedures for
 - vetting drivers/vehicles allocated bookings
 - advertising
 - sub-contracting
 - tariff display
 - pickup/drop off procedures
 - executive hires

Reason for Recommendation:

To improve safety within the licensed hackney carriage and private hire vehicle service operating in Surrey.

1. Purpose of Report

- 1.1 The purpose of this report is to seek the Committee's views on the strategic direction for the proposed review of the Taxi and Private Hire Licensing Policy.

2. Strategic Priorities

- 2.1 The review of the Taxi and Private Hire Vehicle Licensing Policy will contribute to our fundamental themes as follows:
- **Place making** – ensuring safe travel in the Borough through a well regulated taxi service.
 - **Innovation** – using new ways of working to improve efficiency.

3. Background

- 3.1 Taxi and Private Hire Vehicles are licensed by Local Authorities under powers arising from the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The current Taxi and Private Hire Policy 2015-2020 adopted on the 9 December 2015 introduced positive changes to protect public safety by introducing livery for taxis, door signs for private hire vehicles and the requirement for drivers to complete the BTEC Level 2 Certificate in the Introduction to the Role of the Professional Taxi and Private Hire Driver. The Policy was revised on 7 February 2018 to introduce a uniform 'convictions Policy' across Surrey, mandatory Safeguarding training for all licensed drivers, and a requirement for all hackney carriages to accept card payments.
- 3.3 Officers have kept the current policy under review and now propose that the Committee considers the strategic direction to be taken when making revisions to our existing policy. The changes outlined in this report for consideration aim to strengthen measures to uphold public safety, safeguard children and vulnerable adults and to improve air quality by requiring low emission taxi and private hire vehicles.
- 3.4 Despite the law commission review reporting in 2014, legislative reform has not occurred. Taxi Licensing legislation has been subject of minor changes under the Immigration Act 2016 where a duty has been placed upon Licensing Authorities to ensure that applicants for driver's and operator's licences have the 'right to work'; and the Deregulation Act 2015 where the default length of driver and operator licences (3 and 5 years respectively) was introduced, together with the ability for operators to 'sub-contract' bookings to operators licensed by other Authorities.

- 3.5 In September 2017 the government established a Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing with the remit to consider evidence relating to the adequacy of current taxi and private hire vehicle (PHV) licensing authority powers, as set out in legislation and guidance, and to make recommendations for actions to address any priority issues identified.
- 3.6 The TFG reported to the Government in July 2018 with 34 recommendations to reform the taxi sector. The Government responded to the TFG report in February 2019, at the same time publishing draft Statutory Guidance for consultation.
- 3.7 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services. Although the Guidance is currently only in draft form, we understand from the Department for Transport and Institute of Licensing that there will be little change to the draft consulted upon. The Council has already adopted many of the measures in the draft Guidance. There are some recommendations in the Guidance which the Council should now be looking to implement, which form the basis of some of the proposed Policy changes discussed in this report to ensure that Guildford Borough Council maintains its high standards.

4. Proposed changes

- 4.1 The proposed changes to the Council's Taxi and Private Hire Licensing Policy are outlined in this report. It is perhaps also important to emphasise when considering both the current and any future policy the Council's role in safeguarding and protecting the travelling public, and that strong measures to improve standards in the trade should be built upon and not diluted.

Hackney Carriage and Private Hire Drivers

- 4.2 Guildford has already adopted a number of measures outlined in the draft Guidance, including requiring an enhanced Disclosure and Barring Service (DBS) certificate (a criminal records check) which checks the barred lists (list of individuals barred from working with adults and/or children), with a robust Policy on previous convictions; a test of the applicant's knowledge, including an understanding of English; safeguarding awareness training; a BTEC qualification which includes equality awareness and use of the NR3 register (National register of drivers whose licences have been refused/revoked by an authority).
- 4.3 Despite these existing measures, the draft Guidance recommends that all drivers are required to subscribe to the DBS update service, and that Authorities check their criminal histories every 6 months. The Guidance also recommends that drivers are required to 'self-report' any arrest, charges or conviction within 48 hours (we currently require notification within 7 days) and consequently it is proposed to include these measures in the Policy revision. Additionally, the Committee is asked if they wish to include the previous convictions policy in Annexe A of the Statutory Guidance. A previous convictions Policy sets out the criteria to be considered by the Council when determining whether or not an

applicant or an existing licence holder is a fit and proper person based upon any convictions they may hold. The Council is currently signed up to the Surrey-wide convictions policy, which provides a consistent framework across Surrey.

- 4.4 Both Private Hire Vehicle and Hackney Carriage driver's holding a dual licence are subject to the Council's Licence conditions with regard to their conduct. Despite this, the Council does receive complaints and occasionally has to take action against drivers who have fallen short of the standards expected. As such, a code of conduct which sets out the standards expected would help improve standards and the professional image of the service, and would be a more transparent method of taking action against a driver who falls short of the standards expected.

CCTV in Licensed Vehicles

- 4.5 The TFG recommended that all licensed vehicles are fitted with CCTV covering the inside of the vehicle in order to provide greater protection to customers and drivers. The draft Guidance discusses the benefits and risks to using CCTV, concluding that while only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. It is also important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHVs will be responsible for the data. It is important that any decision to mandate CCTV fully considers concerns regarding privacy and how systems are configured. Some drivers have already installed CCTV in their vehicles although there is no requirement for them to.
- 4.6 By mandating the universal use of CCTV, the benefits to both drivers and the public could be realised, with improved authority control over the system specification and use. As such, the Committee are invited to consider whether the use of CCTV in licensed vehicles is a direction which it wishes officers to explore when reviewing the Policy.

Licensed Vehicle Age/Emissions

- 4.7 Air quality and climate change has been of increased concern since the Policy was last reviewed and on 23 July 2019 the Council declared a 'Climate Change Emergency'. The Council currently does not have an emission standard for licensed vehicles, however has an age limit which is as follows:
Up to five years for a new vehicle, up to a maximum age of 10 years (15 for wheelchair accessible type vehicles).
- 4.8 Whilst the proportion of licensed vehicles makes up a small percentage of traffic in and around Guildford at any one time, it is recognised that licensed vehicles are used regularly throughout the day on multiple journeys. As such, the Committee are invited to consider any strategic direction for the Policy to improve air quality in the Borough.
- 4.9 In order to assist the Committee's discussion, a number of other authorities have introduced requirements in this area:

Elmbridge Borough Council are currently consulting on a ban on new diesel vehicles, and for petrol vehicles to be Euro 5 compliant.

Woking Borough Council requires all current vehicles to meet Euro 5 and from January 2022 vehicles must be Euro 6 compliant.

- 4.10 Any radical measures to remove diesel vehicles or require a hybrid or electric fleet are considered premature due to the purchase cost of vehicles and lack of charging infrastructure being prohibitive. A Policy based upon an age limit or the current emissions standard with a reasonable lead in would be more appropriate.

'Fit and Proper' Test for Vehicle Proprietors

- 4.11 Whilst there is focus in the draft Statutory Guidance on the role of drivers and operators, vehicle proprietors also have an important role in ensuring the safe maintenance of vehicles. Unfortunately, licensed vehicles are regularly presented for inspection in a defective and sometimes dangerous condition. As such officer's recommend introducing a policy of allowing action to be taken against proprietors for continued non-compliance.
- 4.12 Additionally, most Authorities, including Guildford Borough Council do not carry out checks on vehicle proprietors to ensure their suitability. A licensed vehicle is the ideal cover for illegal activity such as moving contraband around in an inconspicuous manner. Consequently officer's recommend the introduction of a basic DBS for proprietors and previous convictions policy.

Private Hire Operators

- 4.13 The draft Statutory Guidance also recognises the important role that Private Hire Operators have in protecting the public. The Council already requires Private Hire Operator Licence holders to obtain a Basic DBS. The Guidance however requires Operators to sign up to the DBS update service.
- 4.14 The Guidance also says that Licensing authorities should be satisfied that PHV operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Licensing authorities should request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed and produce a policy on employing staff with a criminal record.
- 4.15 The Guidance also recommends that Operators and their staff should receive similar training to that of drivers around safeguarding and equalities awareness, and that the use of a driver who holds a Public Carriage Vehicle (PCV) licence and the use of a public service vehicle (PSV) such as a minibus to undertake a PHV booking should not be permitted as a condition of the PHV operator's licence.

- 4.16 The Private Hire Operator market has also seen considerable changes since the Policy was last reviewed, with many smaller, local operators merging and the increased popularity of app-based operators. This has created local issues in terms of enforcement, with the current Operator licence conditions still based upon the 'traditional' telephone booking method of operation.
- 4.17 As such, in order to raise standards and improve enforcement, officers recommend that following changes for the Policy review:

Trading names:

Each operator licence can be linked to one trading name – the only exceptions are where all trading names clearly relate to the same business. Any mobile app, websites or advertising used by the operator should clearly give the registered operator name in any links, and Guildford Borough Council licence details must be clearly shown on the app, website or advert. This is so as to ensure that customers know exactly who their booking is with, and will enable improved enforcement through preventing one operator having multiple trading names.

If more than one licence is held to accommodate different trading names, the records and contact details for each trading name must be kept separate, and any receipts or correspondence with the customer must clearly relate to the company the booking was made with.

Sub-contracting:

If an operator sub-contracts the booking, whether to another private hire operator or a hackney carriage vehicle, they should inform the customer and fix the price, and if using a hackney taking care not to charge more than the hackney carriage metered rate if the journey starts and ends in the relevant district. A clear record of the sub-contracting and when the customer was informed shall be kept.

Operator Staff:

All staff employed by the operator must be regularly vetted by the operator, and a record of this maintained for each employee. Vetting must include ensuring the staff are fit and proper persons with the right to live and work in the UK.

Operator Procedures:

The operator shall have procedures in place to ensure all drivers and vehicles used have the required licences and are complying with the relevant conditions of the licences. This should include a record of the regular checks done by the operator showing compliance on each licence.

The operator shall have procedures in place to ensure that no bookings are passed to a driver or vehicle without a valid licence, MOT or insurance.

Improve wording of conditions to make sure condition requiring any information they are required to hold should be made available to an authorised officer.

Pick up and drop off locations

The operator shall have procedures in place to pick up and drop off customers from locations of safety. This is particularly relevant in the town centre as Officers regularly see drivers waiting for bookings, and pick up/dropping off customers in unsuitable (including occasionally illegal and dangerous) locations. These procedures must be reviewed and amended at the request of an authorised officer.

Operator Tariff:

Traditionally operator's fares have matched the hackney carriage fares, until the fare reduction in 2017 when officers experienced a considerable workload in dealing with operator tariffs and questions about hackney carriages undertaking work for operators.

Whilst the Council regulates the fares for hackney carriages, we do not regulate fares for private hire vehicles or operators. Feedback from previous mystery shopping exercises cited confusion from operators who were asked to quote for a local journey, with the response that the journey would be 'on the meter'. This does not provide any clarity for customers about how much a journey may cost them. Additionally there may be a temptation for a private hire driver to take a journey without a booking as it would be 'on the meter', rather than the customer booking and being quoted for a journey in advance.

Similarly at every fare review officers experience a considerable increase in work through dealing with private hire vehicles with taxi meters fitted and private hire vehicles displaying the hackney carriage fare chart.

Consequently, it is recommended that in order to put the emphasis on operators to ensure customers are provided with a reliable quote for services in line with current licence conditions, it is recommended that Private Hire Vehicles are prohibited from having taxi meters. Vehicles may still be fitted with a mobile/PDA device which records the journey and generates a fare based upon time and distance, and operators may still use the hackney carriage fare tariff rates as their own tariff, however by removing taxi meters from private hire vehicles, customers are more likely to receive a more reliable quote for journeys and workload for officers would be reduced.

Executive hires:

The current policy allows some vehicles to be 'plate exempt' which means that they are not required to display the mandatory vehicle licence plates or door signage. As not displaying a plate does not identify the vehicle as being licensed, this should be utilised in only the most discerning of cases, where the safety or integrity of the customer may be compromised by being seen in a licensed vehicle. The current policy should be tightened to reflect that 'plate exemptions' will only be granted in circumstances where the vehicle and client base are 'exceptional' (over and above purely executive specification) to improve decision making, enforcement and public safety.

5. Consultation

- 5.1 Consultation is critical to ensure any changes to the Taxi and Private Hire Licensing Policy are clear and transparent for licence holders and the travelling public.
- 5.2 Once the Policy has been drafted and approved for consultation, full public consultation will take place with the results presented for consideration by the Committee.
- 5.3 In drafting the report, the Lead Councillors views have been sought who agrees with the topics outlined for inclusion in the draft Policy.
- 5.4 It is probably also important to emphasise that this report is intended to form a basis for the Policy direction of the Council, and for officers to develop a Policy which will be presented for consultation with the approval of the Committee.

6. Equality and Diversity Implications

- 6.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 6.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 6.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of equality duty. The implications of changes to the policy will be assessed when the draft policy is formulated for consultation.
- 6.4 Measures which improve safety and standards in the taxi and private hire trades would improve access to the service for customers from all groups.

7. Financial Implications

- 7.1 The Council keeps the fees and charges under review annually and aims to recover as much of the cost of regulating taxi and private hire licensing services as we are legally able, through fees and charges paid by applicants and licence holders.
- 7.2 Any costs associated with preparing and consulting on this policy will be met from existing taxi and private hire licensing budgets. Any additional costs arising

from implementing and enforcing this policy will, where possible, be met through changes to taxi and private hire licence fees and charges.

- 7.3 In terms of potential costs to the trade, drivers are already able to sign up to the DBS update service at a cost of £13 per annum. By signing up to the update service, this would negate the need for drivers to pay for a new DBS every 3 years at an approximate cost of £60. Due to the anticipated resource of every local licensing authority being required to check every drivers' DBS every 6 months, we anticipate that we will speak to our current DBS provider about their intentions for the update service. According to the Task and Finish Group report, in vehicle CCTV systems can cost as little as a new set of tyres (approx. £300). Any costs associated with the taxi trade can be included in the Council's Fare Calculator to enable recover through the Fare tariff.

8. Legal Implications

- 8.1 There is no statutory requirement to have a taxi and private hire licensing policy; however, it is good practice to do so. A policy assists with consistent decision-making; however each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.
- 8.2 In relation to taxi and private hire licensing, there are specific powers contained in the Town Police Clauses Act 1847, Transport Act 1985 and Local Government (Miscellaneous Provisions) Act 1976. These allow the Council to specify the requirements that vehicles and drivers must meet in order to be licensed, and to refuse a licence to drivers if we are not satisfied that the drivers are fit and proper persons to hold a licence. They also allow conditions to be attached to licences.
- 8.3 The draft Statutory Guidance comes from powers under the Policing and Crime Act 2017 which enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services.
- 8.4 All local authorities and district councils, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children.
- 8.5 The draft Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's Best Practice Guidance was last updated. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 8.6 The draft Statutory Guidance makes it clear that Licensing Authorities will be expected to follow and implement the recommendations and will be at risk of legal challenge should they choose not to.

9. Human Resource Implications

- 9.1 The review of the Taxi and Private Hire Policy will take considerable officer time, however can be managed from within the current licensing resource, although it is recognised that the work is taking place during the Future Guildford review.

10. Recommendation

- 10.1 That Licensing Committee consider the proposals in this report and recommends that Officers progress work to incorporate the measures within the Council's Taxi and Private Hire Policy to be consulted upon.

11. Conclusion

- 11.1 The aim of Taxi and Private Hire Licensing is to protect the travelling public, and to ensure that the highest standards within the professional licensed taxi trade are maintained so that the public have confidence to use the service.
- 11.2 The Council's Policy is due for review and the Council will be required to have regard to any Statutory Guidance issued under s.177 of the Policing and Crime Act 2017 when considering any changes. The guidance is currently in draft form.

12. Background Papers

- 12.1 [Taxi and Private Hire Licensing Policy 2015-2020](#)
- 12.2 [Taxi and Private Hire Vehicle Licensing: Protecting Users. Consultation on Statutory Guidance for Licensing Authorities](#)
- 12.3 [Taxi and Private Hire Vehicle Licensing: Best Practice \(Department for Transport, 2010\)](#)
- 12.4 [Taxi and Private Hire Vehicle Licensing: Councillor Handbook \(Local Government Association, 2017\)](#)
- 12.5 [Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades \(Institute of Licensing, 2018\)](#)

13. Appendices

There are no Appendices to this report.

14. Consultation

Service	Sign off date
Finance / 151 Officer	21 October 2019
Legal / Governance	18 October 2019
HR	25 October 2019

Equalities	<i>25 October 2019</i>
Lead Councillor	<i>09 October 2019</i>
CMT	<i>22 October 2019</i>
Committee Services	<i>14 October 2019</i>