

Environment and Communities Committee

| | |
|-----------------------------|--|
| Date of Meeting: | 4 th August 2022 |
| Report Title: | Cheshire East Council Hackney Carriage and Private Hire Licensing Policy |
| Report of: | Jayne Traverse, Executive Director – Place |
| Report Reference No: | EC/37/21-22 |
| Ward(s) Affected: | All Wards |

1. Purpose of Report

- 1.1. This report seeks approval to adopt the revised Cheshire East Council Hackney Carriage and Private Hire Licensing Policy.

2. Executive Summary

- 2.1. This report advises the Committee of the publication of the Department for Transport (DfT) 'Statutory Taxi and Private Hire Vehicle Standards' (the Standards) and subsequent changes that are required to the existing Cheshire East Council Taxi Licensing Policies and procedures to implement the recommendations within the standards.
- 2.2. The draft policy has been subject to informal engagement and a formal consultation with stakeholders including trade representatives, businesses that may be affected by the amendments, the general public, neighbouring authorities, police and other agencies (e.g. safeguarding agencies).
- 2.3. Responses received to the consultation have been given consideration and changes were made to the draft policy as a result.
- 2.4. The draft policy, including changes made as result of the consultation, has been considered by the Licensing Committee which resolved that the draft policy be recommended to the Environment and Communities Committee for adoption.

3. Recommendations

- 3.1. That the Environment and Communities Committee:
 - 3.1.1. Consider the representations received to the consultation undertaken on the draft policy (Appendix 2).

- 3.1.2. Approve the Cheshire East Council Hackney Carriage and Private Hire Licensing Policy (Appendix 1) for adoption with an effective date of 1st November 2022.

4. Reasons for Recommendations

- 4.1. Licensing Authorities are obliged, under section 177 of the Police and Crime Act 2017, to have regard to the 'Statutory Standards, and are expected to adopt them unless there are compelling local reasons not to.

5. Other Options Considered

- 5.1. There is a statutory requirement for the Council to adopt a policy setting out our approach to hackney carriage and private hire licensing, therefore no other options have been considered.

6. Background

- 6.1. Local authorities are required to have in place a taxi licensing policy to enable the authority to carry out its functions relating to the licensing of Hackney Carriage and Private Hire Driver, Vehicles and Operators. In 2020 the Department for Transport (DfT) issued a Statutory Standards document which requires local authorities to review their licensing policies, every five years, unless legislative changes or local circumstances dictate otherwise.
- 6.2. The draft revised policy and conditions document has incorporated proposals set out in the Statutory Standards document, along with other changes that fall outside the scope of the DfT Standards document.
- 6.3. The Environment and Communities Committee considered a draft policy at its meeting on the 9th September 2021. This followed some informal initial consultation with the licensed trade. The Committee resolved that the draft policy should be sent out for formal consultation.
- 6.4. Details of the draft policy and conditions were circulated widely to stakeholders, trade representatives, businesses that may be affected by the amendments, the general public, partners, including neighbouring authorities, police and other agencies (i.e. safeguarding agencies). The closing date for comments was 24th December 2021.
- 6.5. The Council received over 230 responses to the consultation. A copy of the consultation report is provided at Appendix 2.
- 6.6. It is important to demonstrate that in reviewing responses to the consultation, due weight and consideration has been given to all representations including, where appropriate, why some responders have been disregarded. This is so that in the event that the policy is challenged, the authority can demonstrate to a court how it arrived at the final policy.
- 6.7. Responses received during the consultation period have been given consideration and changes were made to draft policy as a result of these responses. The key changes made following the consultation were:

- 6.7.1. Frequency of DBS checks changed from every six months to every twelve months.
- 6.7.2. The sections of the policy (for hackney carriage and private hire vehicles) will take effect after one year of the policy coming into effect for EURO 5, and EURO 6 requirements to take effect 24 months after the EURO 5 requirements take effect.
- 6.7.3. The requirement for an additional vehicle check, at the six-month point, will take effect when the vehicle is seven years old from date of registration rather than the previously proposed five years.
- 6.7.4. Providing grandfather rights for existing licence holders.
- 6.8. Several consultation responses raised matters that were either outside of the scope of the policy or were matters over which the Council has no control. These matters were therefore disregarded and include cross border hiring issues and the amount of trade or business available.
- 6.9. A draft of the policy, including any changes made as result of the consultation, was considered by the Licensing Committee at a meeting on the 6th June 2022. At that meeting the Licensing Committee considered the changes made following the consultation and officer comments responding to some responses. The Licensing Committee resolved that the draft, as amended, be recommended to the Environment and Communities Committee for adoption.

7. Consultation and Engagement

- 7.1. The DfT formally consulted on the Standards from 12th February to 22nd April 2019. The consultation document was entitled 'Taxi and Private Hire Vehicle Licensing: Protecting Users – Consultation on Statutory Guidance for Licensing Authorities'.
- 7.2. The Licensing Service undertook a pre-engagement consultation with existing licence holders seeking their views on the standards and changes to the policy/conditions that fall outside the DFT national standards.
- 7.3. At a meeting of the Environment and Communities Committee on Thursday 9th September 2021 members approved the draft policy for public consultation.
- 7.4. The consultation took place between October and December 2021 by way of an online questionnaire; written representatives were also considered to be acceptable. Relevant stakeholders were given notice of the consultation both through email invites to take part and a written paper invitation to those whose email details were not held.
- 7.5. The Licensing Committee was also able to comment on the draft policy before making a recommendation to the Environment and Communities Committee that it should be adopted.

8. Implications

8.1. Legal

- 8.1.1. The Statutory Taxi and Private Hire Vehicle Standards are not legislation. However, paragraph 1.3 of the Standards states “The Department (for Transport) expects these recommendations to be implemented unless there is compelling local reason not to”.
- 8.1.2. The document makes it clear that the standards have been developed because of past failings of licensing regimes and makes reference to both Jay and Casey reports and lists several local authorities where taxi licensing policy and practice had failed to offer the necessary protection to children.
- 8.1.3. The duty is a “have regard” duty. This means that the Council must take the standards into account and must give clear reasons for departing from them.
- 8.1.4. The risks of not adopting changes to the Policy outweigh the risks with adopting changes. A failure to adopt the proposed changes would leave the Authority exposed in the event harm arose as a result.

8.2. Finance

- 8.2.1. Proposals within the final policy will result in additional direct costs to the licensed trade. The main costs will be the capital costs associated with the purchasing of Electric and Low Emission Vehicles. However, the running costs associated with these types of vehicles is considered to be lower than vehicles than diesel or petrol fuel.
- 8.2.2. There is also the potential for challenges by the trade to any change in policy that are brought in and if so, this may incur legal costs to defend any such challenge. Any costs associated with this outcome would be funded from the existing Licensing budget but may cause a budgetary pressure.
- 8.2.3. Some additional costs associated with the administration and enforcement of the taxi licencing regime can be recovered via taxi licensing fees. Other costs are funded from the existing Licensing budget.

8.3. Policy

- 8.3.1. The Council has, on a number of occasions, written to the Department for Transport, Local Government Association and local Members of Parliament to express concerns in the different standards applied across the Country. This has the potential to allow applicants deemed unsuitable by one Council to be licensed by a different Council who apply their own policy. This could include those with criminal convictions. As a result of cross-border hiring the applicant could work anywhere in the country, even in areas where they may have been refused a licence. The DfT Standards go some way to ensuring that scenario is less likely.

8.3.2. The Council's Corporate Plan 2021 – 25 sets out our vision for a more open, fairer, greener Cheshire East. The plan also sets out priorities under the three broad aims including "welcoming safe and clean neighbourhoods". This policy will support the priority to protect residents and improve our environment and in particular the action to have a robust licensing regime for hackney carriage and private hire vehicles.

8.4. Equality

8.4.1. There are no equalities implications arising from this report. An Equality Impact Assessment has been undertaken and identified that the draft policy does include changes that would beneficially affect those with protected characteristics identified in the Equality Act 2010. Those changes include the types of vehicles that will be considered (e.g. wheelchair accessible vehicles), a public register to be kept identifying accessible vehicles with contact details, and officers are in communication with the RNIB to discuss appropriate signage in vehicles.

8.5. Human Resources

8.5.1. There are no Human Resources implications arising from this report. However, the proposed changes may have an impact on staffing resources to deliver some of these changes, such as the additional DBS checks proposed, and implementation of the NAFN NR3 register. It is anticipated that any policy changes will be implemented within existing resources, and this will be monitored as part of the Service Business Planning process.

8.6. Risk Management

8.6.1. There are no known risks other than those already highlighted within the report. The risk of not adopting this policy and the risk of legal challenge as a result could leave the Council open to criticism. Additionally, the policy is intended to provide a framework for decision-makers to make reasonable, fair, and appropriate decisions. This will mitigate the risk of any challenges to decisions taken.

8.7. Rural Communities

8.7.1. There are no Rural Communities implications arising from this report. Rural communities can rely on taxis as a safe, convenient and cost-effective transport provider where other forms of local transport do not exist.

8.8. Children and Young People/Cared for Children

8.8.1. The main focus of the standards is on protecting children and vulnerable adults, however all passengers will benefit from the standards.

8.9. Public Health

8.9.1. There are no public health implications arising from this report.

8.10. Climate Change

- 8.10.1. The policy seeks to implement measures to reduce the effects of climate change and will contribute to the Council’s pledge to make Cheshire East a carbon neutral borough by 2045. The policy encourages the purchase of zero emission or hybrid vehicles and includes policies in relation to minimum vehicle emission standards.

| Access to Information | |
|------------------------------|---|
| Contact Officer: | Kim Evans, Licensing Team Leader / Amanda Andrews, Licensing Enforcement Officer Kim.evans@cheshireeast.gov.uk / amanda.andrews@cheshireeast.gov.uk 0300 123 5015 |
| Appendices: | Appendix 1 – Draft CEC Taxi Policy 2021 – 2025 Appendix 2 - Report following public consultation (October to December 2021) |
| Background Papers: | Report to the Licensing Committee 6th June 2022 Statutory Taxi & Private Hire Vehicle Standards – Department for Transport July 2020 Report to the Environment & Communities Committee 9th September 2021 |