

## **Licensing Committee**

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<b>Date of Meeting:</b>	6 <sup>th</sup> June 2022
<b>Report Title:</b>	Cheshire East Council Hackney Carriage and Private Hire Licensing Policy
<b>Report of:</b>	Paul Bayley, Director of Environment and Neighbourhood Services
<b>Report Reference No:</b>	To be provided by Democratic Services
<b>Ward(s) Affected:</b>	All Wards

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### **1. Purpose of Report**

- 1.1. To enable Members of the Licensing Committee to consider the draft Hackney Carriage and Private Hire Licensing Policy and any revisions following consultation.

### **2. Executive Summary**

- 2.1 This report advises Members 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 This report also recommends additional changes to the policy/procedures following the assessment of consultation responses by officers.

### **3. Recommendations**

- 3.1. That the Licensing Committee:
  - i. Notes and approve the changes to the draft Hackney Carriage and Private Hire Licensing Policy as set out in Appendix 1 to the report.
  - ii. Recommends the draft Hackney Carriage and Private Hire Licensing Policy (incorporating the officer amendments and suggestions – appendix 2), to the Environment and Communities Committee for adoption.

#### **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 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. Since drafting the Taxi Policy, the Department for Transport has published a revised Taxi and Private Hire Licensing Best Practice Guidance for Licensing Authorities in England which is currently open to consultation until 20<sup>th</sup> June 2022.
- 6.3. 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.
- 6.4. Details of the draft policy and conditions were circulated widely to stakeholders, trade representatives, businesses that may be affected by the amendments, general public, partners, including neighbouring authorities, police and other agencies (i.e. safeguarding agencies). The closing date for comments was 24<sup>th</sup> December 2021.
- 6.5. Cheshire East Council received over 230 responses to this consultation exercise and a copy of the consultation report prepared by the Business Intelligence Service is attached at Appendix 3.
- 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 responses 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 careful consideration and any changes to the document proposed as a result of these responses have been highlighted within the responses document and will be incorporated into the draft document attached at appendix 1. A copy

of the responses document and Licensing Officers comments is attached at Appendix 4 Licensing Officers have also suggested their own amendments to the draft policy document and these are set out at appendix 2 to the report.

- 6.8. In addition to amendments, the policy allows for Grandfather Rights to be given to exiting licence holders. A number of the consultation responses also seek Grandfather Rights. Grandfather Rights are a tool that allows existing licence holders some protection from changes in policy or conditions. There are usually given where there is a financial cost of changes that it is felt existing licences holders should be protected from for a period of time. Grandfather Right periods suggested by officers are set out at appendix 5 to the report. This table has also been included within the amended policy at Appendix V

## **7. Consultation and Engagement**

- 7.1. The DfT formally consulted on the Standards from 12 February to 22 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 national standards set by DfT.
- 7.3. At a meeting of the Environment and Communities Committee on Thursday 9<sup>th</sup> 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 who email details were not held. Consultation responses have been collated by Officers and are attached for Members to consider at Appendix 2??

## **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 as a result of past failings of licensing regimes and makes reference to both Jay and Casey reports, concerning child sexual exploitation, 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.
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## 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 Zero Emission Vehicles. However the running costs associated with these types of vehicles is considered to be lower than vehicles that use 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.
- 8.2.3. Some additional costs associated with the administration and enforcement of the taxi licencing regime can be recovered via taxi licensing fees.

## 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 at this stage. However, an Equality Impact Assessment will be undertaken before the final policy is recommended for approval.

**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, implementation of the NAFN NR3 register.

**8.6. Risk Management**

8.6.1. There are no known risks other than those already highlighted within the report.

**8.7. Rural Communities**

8.7.1. There are no Rural Communities implications arising from this report. However, 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 known 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 be in accordance with the Council's Carbon Reduction Plan. The draft policy specifically mentions the possible licensing of electric and zero emission vehicles.

<b>Access to Information</b>	
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Appendices:	Appendix 1 – Draft CEC Taxi Policy 2021 – 2025 Appendix 2 – Officer recommended changes (incorporated into draft policy) Appendix 3 – Report following public consultation (October to December 2021) Appendix 4 – Officer Comments to the Consultation

	Appendix 5 – Proposed Grandfather Rights (incorporated as an appendix within the draft policy)
Background Papers:	Statutory Taxi & Private Hire Vehicle Standards – Department for Transport July 2020 Report to Environment & Communities Committee 9 <sup>th</sup> September 2021