

<b>Subject:</b>	Revised Policy for the Licensing of: Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles	<b>Status:</b>	For Publication
<b>Report to:</b>	Licensing Committee	<b>Date:</b>	25 <sup>th</sup> January 2016
<b>Report of:</b>	Licensing and Enforcement Manager	<b>Portfolio Holder:</b>	Legal and Democratic Services
<b>Key Decision:</b>	<input type="checkbox"/> Forward Plan <input type="checkbox"/>	<input type="checkbox"/> General Exception <input type="checkbox"/>	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No	Attached: No
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: N/A
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<b>1.</b>	<b>RECOMMENDATION(S)</b>		
1.1	That the Licensing Committee resolves to adopt the revised Policy for the Licensing of: Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles.		
1.2	That the fees for private hire and hackney carriage drivers, vehicles and operators licensing be amended in line with Appendix B.		
1.3	All future minor amendments to the policy to be delegated to the Director of Business/Monitoring Officer in consultation with the Licensing Committee Chairperson and Portfolio Holder.		

## 2. PURPOSE OF REPORT

- 2.1 To propose a revised policy that will guide the Licensing Committee, Licensing and Enforcement Unit and applicants or existing licence holders for licences falling within the scope of the hackney carriage or private hire regime.

## 3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Regenerating Rossendale:** This priority focuses on regeneration in its broadest sense, so it means supporting communities that get on well together, attracting sustainable investment, promoting Rossendale, as well as working as an enabler to promote the physical regeneration of Rossendale.
  - **Responsive Value for Money Services:** This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.
  - **Clean Green Rossendale:** This priority focuses on clean streets and town centres and well managed open spaces, whilst recognising that the Council has to work with communities and as a partner to deliver this ambition.

## 4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
- The absence of a policy to guide applicants and members when an application for a licence under the hackney carriage or private hire licensing regime is detrimental to applicants, members and residents.

## 5. BACKGROUND AND OPTIONS

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- 5.1 On 23<sup>rd</sup> February 2011 the Council resolved to adopt the current policy for the licensing of hackney carriage drivers and vehicles and private hire operators, drivers and vehicles (the Policy) and they delegated any future changes to the policy for the licensing of hackney carriage drivers and vehicles and private hire operators, drivers and vehicles to the Licensing Committee.
- 5.2 Members are reminded that this matter was presented at a meeting of the Licensing Committee on 10<sup>th</sup> November 2015 where it was resolved that the item be deferred to a future meeting of the Licensing Committee to allow members the opportunity to fully digest the reports presented.
- 5.3 Policy workshops have taken place with elected members of the Licensing Committee on 30<sup>th</sup> November 2015 and 21<sup>st</sup> December 2015.
- 5.4 On 26<sup>th</sup> November 2015 the trade were invited to submit proposed amendments/comments on the policy documents in readiness for the policy workshop which took place with them on 15<sup>th</sup> December 2015. The Association gave some initial comments but stated further submissions would be made before Christmas. These were not received and the Association was contacted on 5<sup>th</sup> January 2016. A deadline of 7<sup>th</sup> January was given for any further submissions and a response was received the same day stating that this would be sent to the Council within the next 24 to 48 hours. A reminder was issued by email to the Association on 12<sup>th</sup> January 2016. At the time of writing this report, no further submissions were received at the Council from the Rossendale Taxi Association.
- 5.5 The Policy as revised is intended to raise the profile of the hackney carriage and private hire trade. It has been updated to reflect procedural changes plus the introduction of some pre-requisite assessments (basic skills and policy knowledge) and mandatory training (child sexual exploitation awareness, customer care and disability awareness).
- 5.6 There is also the possibility, subject to funding, of rolling out some of the mandatory training (child sexual exploitation awareness, customer care and disability awareness) to current drivers.
- 5.7 The proposed fee for the pre-requisite assessments (basic skills and policy knowledge) is set at £70.00 and is reflected in the table of fees for private hire and hackney carriage drivers, vehicles and operators appended at Appendix B. This fee was calculated following a cost analysis of the work to be carried out and following consultation on fees with other Councils.
- 5.8 Furthermore, the sub-committee will have the option of referring drivers to undertake one or more of the assessments where it is deemed appropriate to do so, for example if there are concerns around a licensed driver communicating with passengers. In these cases, a fee of £70 will be levied.
- 5.9 The proposal to levy a fee to lift a vehicle suspension has been removed.
- 5.10 The consultation exercise incorporated The Policy, a revised Convictions Policy and a proposed Hackney Carriage Intended 'Use' Policy.

The majority of the responses commented on the proposed Hackney Carriage Intended 'Use' Policy however the Rossendale Taxi Association did make comment on the revised policy for the Licensing of: Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles and meetings have taken place between the Rossendale Taxi Association and the Licensing and Enforcement Unit.

5.11 The Policy before you at Appendix A reflects some of the agreements made during those meetings although not every recommendation from the Rossendale Taxi Association has been included in the scope of the revisions. The recommendations from the Taxi Association not included in the revised policy include how the Council deal with incomplete applications, “Seating Capacity of Vehicles”, “Licence Fees”, “Vehicle Windows” and “No Smoking Stickers”. Members must therefore consider the following during the determination of this matter.

#### 5.12 **Rejections**

It is currently the Council’s policy to reject incomplete licence applications.

It is the view of the Association that if an application is incomplete, the Council may either refuse to grant or renew the licence or exercise its rights to formally request the missing information. If this is not provided, the driver may be prosecuted for their failure to provide relevant information under the Local Government (Miscellaneous Provisions) Act 1976, section 57(3).

This view is not supported. To change the current Policy by refusing to grant or renew a licence application in these circumstances would be detrimental to both the applicant and the Council. The current administrative procedure allows for an applicant to re-submit their rectified application within 3 weeks of rejection and this has proved to be the most efficient process in terms of cost and Council time. If the Policy were to change as suggested by the Association, the applicant would have the additional financial burden of appealing the decision to the Magistrate’s Court and both the applicant and the Council would have to attend Court in order to conclude the application. The current procedure is more practical for both the applicant and the Council.

#### 5.13 **Seating Capacity of Vehicles**

It is recommended that the vehicle specifications mentioned at 5.8 of this report remain in the policy to ensure the continued safety and comfort of the travelling public. The recommendations are as follows:

- In determining the number of passengers that a vehicle may be licensed for, the following guidelines will be applied;
- where separate seats for each person are provided one person shall be counted for each separate seat provided;
- where the vehicle is fitted with continuous seats one person shall be counted for each complete length of 410 mm measured in a straight line lengthwise on the front of each seat, however this number shall be reduced where there are insufficient seatbelts provided to accommodate this number; and
- where any continuous seat is fitted with arms in order to separate the seating spaces and the arms can be folded back or otherwise put out of use, the arms shall be ignored in measuring the seat.

The Association are requesting that this is changed to:

In determining the number of passengers that a vehicle will be licensed to carry, the Council will count one passenger for each three-point safety belt fitted as standard by the vehicle manufacturer.

This view is not supported.

### Justification

Where a vehicle is fitted with continuous seats and the continuous length falls below the criteria (one person shall be counted for each complete length of 410 mm), this will not bar the vehicle from becoming licensed, it will however reduce the number of passengers the vehicle will be licensed to carry. Examples of vehicles that are currently licensed to carry 3 passengers include Skoda Fabia's and Nissan Note's. Whilst the seats on private use vehicles are acceptable for this purpose, licensed vehicles should be considered in a different light and must be considered with public safety and comfort in mind. Whilst public safety will be the first priority, it should be noted that the public's comfort should also be taken into consideration. The Licensing Committee should therefore consider whether seats falling below these criteria should be deemed adequate for public service vehicles.

#### 5.14 **Licence Fees**

##### The current policy states:

The legislation provides that fees charged to applicants should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands (taxi ranks) and administering the regulation of the hackney carriage and private hire trades.

The appropriate fee must be paid when the application for a hackney carriage or private hire driver's and/or vehicle licence is submitted.

Current fees are advertised on the Council's website and are detailed on the relevant application form guidance notes.

In respect of hackney carriage and private hire driver and vehicle licences, no refunds will be given after the licence had been issued.

In respect of applications for hackney carriage and private hire driver's licences, no refund will be given to applicants who are refused a licence after determination by the Council.

In any other case where an administration cost has been incurred, a fee of 25% of the normal fee would be levied.

##### It is the view of the Association that this is not lawful and are recommending the following:

The Local Government (Miscellaneous Provisions) Act 1976, sections 53 and 70 provides that fees charged to applicants should not exceed the costs of regulating, controlling and monitoring the hackney carriage and private hire trades, subject to the limitations of the legislation and case law.

The appropriate fee must be paid when an application is made for a licence.

Current fees are advertised on the Council's website and are detailed on the relevant application form guidance notes.

If a licence is refused or an application withdrawn before a licence is granted, a full refund will be made to the applicant, because the fee is only payable on the grant of a licence.

No refund will be made in respect of any unused period of a driver's licence.

The Council will make a refund for any unused period of a vehicle licence that is voluntarily surrendered, but will not make any refund following the suspension or revocation of a licence.

This view is not supported. The case that the taxi association rely on is Liverpool City Council v Kelly. This case is more concerned with vehicle licences rather than the drivers licence; however it does provide some insight. At first instance, the judge interpreted Section 53 Local Government (Miscellaneous Provisions) Act literally which says that ‘a district council may demand and recover for the **grant** to any person of a licence to drive a hackney carriage.’

However, the Local Authority in that case appealed the decision and the matter went up to the Court of Appeal. The appeal was successful and it was held that the local authority could charge fees whether a licence was granted or not on the basis that Parliament could not have intended those repeatedly presenting unsatisfactory vehicles should not have to pay a fee.

#### 5.15 **Vehicle Windows**

The current proposal is:

All vehicle windows shall be transparent or if tinted, the front windscreen, front passenger window and driver’s window must let at least 75% of light through and all other windows must let at least 70% of light through to the satisfaction of the Authorised Officer. The Council will not licence a vehicle to which a laminating film has been applied.

The Association’s proposal is:

The Council will not license a vehicle to which a laminating film has been applied, because it makes it difficult to break a window in the event of an emergency.

The Council will license vehicles with tinted glass so long as it is the manufacturer’s standard specification and complies with the legal requirement.

The Associations view on laminating film is supported but their view on tints is not.

Justification

Dark tints on licensed vehicles are increasingly noted by Licensing Officers, the Police and members of the public. Whilst tints on private use vehicles are acceptable, licensed vehicles should be considered from a public safety perspective. Whilst public safety will always be the first priority, it should be noted that transparent windows also offer protection to the driver of the vehicle. The Licensing Committee should therefore consider whether tinted, and in particular, heavily tinted windows should be deemed acceptable on a public service vehicle.

#### 5.16 **No Smoking Stickers**

At the policy workshop meeting with the Association on 15<sup>th</sup> December 2015, the matter of “No Smoking stickers” was discussed. The current Policy remains silent on this as there is legislation. At the meeting it was agreed that the Policy should now include this for clarity as and there were differing opinions as to where the stickers should be placed. At the time of writing this report, there were no written submissions on this matter. The Policy therefore has been amended to include the following at paragraph 2.31:

“The display of no smoking signage is a legal requirement for a licensed hackney carriage or private hire vehicle. No smoking signage shall be clearly placed on every passenger window and shall face inwards and outwards and must not be displayed in a manner that obscures the driver’s visibility.”

5.17 Save for some minor amendments, particulars of the changes to this Policy following workshop sessions are appended at Appendix C and Appendix D.

## COMMENTS FROM STATUTORY OFFICERS:

### 6. SECTION 151 OFFICER

6.1 It is anticipated that there will be a significant reduction in the number of applications and therefore fees generated in future years. The Council will continue to ensure that income and expenditure is matched, however, the contribution to expenditure is anticipated to reduce in future years by c. £200,000 pa.

### 7. MONITORING OFFICER

7.1 The Council must make a decision based on all relevant information and following consideration of all relevant Council policies, consultation, legislations and case law. The Council must ensure it has an up to date, robust policy that reflects the service it delivers and regulates.

### 8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

- 8.1
- Consultation period ran from 3<sup>rd</sup> June until 31<sup>st</sup> July 2015 via the Council website, Taxi Association and other Local Councils in Greater Manchester and Yorkshire, Elected Members and Legal and Democratic portfolio holder.
  - 75 responses were received from:
    - 8 Councils responded; plus
      - West Yorkshire prepared a combined response
    - 3 Elected Councillors
    - 3 Members of Parliament
    - 2 Hackney Carriage Driver Employers
    - 1 insurance company
    - 57 Hackney & Private Hire Drivers; of which
      - 48 are licensed elsewhere; and
- 9 are licensed by Rossendale

Further consultation has been carried out as detailed within the body of the report.

8.2 There are no specific human resources implications.

8.3 An EIA initial assessment has been undertaken and it has been identified there are no disproportional impact and a Full EIA is not required.

### 9. CONCLUSION

9.1 That the Licensing Committee resolves to adopt the Revised Policy for the Licensing of: Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles and the associated fee structure.

#### Appendices

Document	Place of Inspection
Revised Policy for the Licensing of: Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles	Appendix A
Fees for private hire and hackney carriage drivers, vehicles and operators	Appendix B
Update report to Licensing Committee Tuesday 10 <sup>th</sup> November 2015	Appendix C
Policy updates following workshops	Appendix D