

Subject:	Proposed changes to the Policy for the Licensing of: Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles	Status:	For Publication
Report to:	Licensing Committee	Date:	Tuesday 7 th February 2017
Report of:	Licensing Manager	Portfolio Holder:	Legal and Democratic Services
Key Decision:	<input type="checkbox"/> Forward Plan <input type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required:	Yes	Attached: No
Biodiversity Impact Assessment	Required:	No	Attached: N/A
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1.	RECOMMENDATION(S)
1.1	That the Licensing Committee consider the report and associated appendices and approve the revised Taxi Licencing Policy with or without amendment at Appendix 5 including the appendices contained within the policy (i.e. alphabetical appendices)
1.2	That the Licensing Committee request officers to review the current taxi licensing enforcement policy attached at Appendix Q within the draft Taxi Licensing Policy (Appendix 1). The review to include legal updates including recent case law. The revised draft document to be subject to consultation with taxi trade representatives and brought back to the next meeting of the Licensing Committee for consideration.
1.3	That the Licensing Committee consider the proposals regarding revised private hire licensing conditions and agree a 6 week consultation exercise be conducted with representatives of the private hire trade and local authorities in respect of the Licensing Conditions proposed at Appendices 2, 3 and 4 . The revised draft licensing conditions be brought back to the next meeting of the Licensing Committee for consideration.
1.4	That the Licensing Committee approve a revised implementation date of 1 June 2017 in respect of recommendation No's 32 and 33 considered by the Committee at its meeting on 15 November 2017 for the implementation of the knowledge test requirement for existing licensed drivers

2. PURPOSE OF REPORT

2.1 To provide the Committee with an updated draft Taxi Licensing Policy that reflects the decisions made by the Committee at its meeting on 15 November 2016.

To provide the Committee with an update of actions taken in respect of the decisions made by the Committee at its meeting on 15 November 2016 that was not part of the update to the Taxi Licensing Policy.

To provide the Committee with a set of draft licence conditions relating to private hire for consideration.

To request the committee to consider whether a review of the taxi licensing enforcement policy is appropriate.

The Committee to consider and determine the recommendations.

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 The recommendation(s) in this report involve risk considerations as set out below:

- The report is primarily concerned with the implementation of the recommendations approved by the Committee at its meeting on 15 November 2016. Taxi trade representatives have been provided with copies of the draft code of conduct and exceptional condition policy and have been given the opportunity to comment on them.
- The review and development of taxi licensing policies is essential, to ensure that robust policies are in place. The Taxi Licensing Policy will provide transparent guidance to applicants, existing licence holders, officers, members, taxi users and other stakeholders as to the standards expected of Rossendale taxi licence holders.
- The Councils Taxi Licensing policy ensures that the relevant safeguards are in place to enable Rossendale Council to fulfil its licensing function having regard to public safety in its widest sense.
- The report includes proposals for revised licence conditions in respect of the Councils growing private hire trade. The proposed licence conditions represent a considerable change in standards and therefore should be subject to a formal consultation period with relevant interested parties.

5. BACKGROUND

5.1 On 15 November 2016 The Licensing Committee considered a report in respect of Proposed Changes to the Policy for the Licensing of Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles, the minutes of those considerations are recorded as follows.

1. That the Licensing Committee considered the report and associated appendices and approved the recommendations at Appendix C, along with the rectification of typographical errors and the amendment to recommendation 27.

2. That officers be requested to incorporate the changes into the Councils Policy for the

Licensing of Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and Vehicles.

3. That the amended policy is incorporating the revised conviction policy, exceptional condition policy and CCTV specification be brought back to the Licensing Committee for approval.

4. That officers would undertake a further review of the private hire licensing requirements.

5.2 A letter dated 28 December has been received from a2z licensing, the letter and the Councils response is the subject of a separate report included earlier on the agenda for this meeting. The decision of the Committee in respect of that matter will be relevant as to how this report is considered.

5.3 Attached at **Appendix 1** is a document that details all the recommendations approved by the Committee at its meeting on 15 November and a progress report in respect of each recommendation where appropriate.

Attached at **Appendix 5** is a revised draft taxi licensing policy that reflects the changes approved by Committee on 15 November 2016, and additional information that reflects current working practice within the Licensing team. **Appendix 5** includes a number of alphabetical appendices which are referred to within the Taxi Licensing Policy. The key changes in **Appendix 5** are shown in red type, for persons using black and white print these will show as lighter coloured print.

Section 5.4 below provides some background information in respect of the development of revised standards applied to the revised draft taxi licensing policy and other standards proposed in respect of taxi licensing.

5.4 **Development of standards**

5.4.1 Code of Conduct

The code of conduct has been developed to assist drivers understand the conduct required of them whilst undertaking the role of a licensed driver. Within the legislation and the councils taxi licencing policy there are standards that drivers must adhere to, e.g. notification of change in medical condition, notification in respect of any change regarding criminality (charge or conviction), wearing of drivers badge etc., however there is no legal definition of what constitutes the standard required to maintain the status of being a “fit and proper” driver. The code of conduct has been devised to assist drivers in understanding the standard of conduct required of them. In developing the code, officers reviewed codes of conduct in place in other local authorities and the Department for Transports best practice guidance in respect of taxi licensing standards.

5.4.2 Vehicle Exceptional Condition Policy

This policy has been developed to allow some flexibility in respect of the vehicle age limit policy. It is important that applicants have a clear understanding of what the Council will take into account when considering whether a vehicle is in exceptional condition. It is important that applicants understand that a tired vehicle that has merely undergone a respray and valet does not constitute a vehicle in exceptional condition. The policy has been devised in consideration with similar policies in other local authorities that have vehicle age limits in place. It should be remembered that any applicant who is refused a vehicle licence does

have a statutory right of appeal to court regarding that refusal.

5.4.3 Vehicle colour livery

This requirement is being introduced in respect of new hackney carriage vehicle licences (renewal applications are not affected by this requirement). The purpose of having a single colour for newly licensed hackney carriage vehicles is to assist in identification (along with single design roof signs and company door signs). A livery for licensed vehicles is adopted by many local authorities. The taxi trade have been invited (most recently on 18 January) to give a view as to their preferred colour but have declined to do so. Rossendale taxi association don't want any colour livery as they consider that this will affect the purchase price of hackney carriages as demand for particular colour increases (the association considers that the licensed hackney fleet will be reduced to approximately 300 vehicles after the impact of the intended use policy). In terms of specific colour the association considers white to be difficult to keep in good condition and it is already the colour livery of Manchester private hire and Rotherham hackneys. They consider that the Committee have already dismissed black as a colour because people with dementia fail to recognise dark colours. The Rossendale taxi association have not been prepared to suggest any colour for the livery other than whatever colour is adopted, should not be a particular pantone colour shade but identifiable from the vehicle log book , e.g. If it says pink on the log book any shade of pink is acceptable.

Officers experience of working with colour policies elsewhere is that colours as defined on vehicle log books are very general, for example vehicle log books describing the colour as silver can include a wide variety of colour shades including dark metallic grey/ champagne and metallic blue/grey, the practical impact of this is that it does not provide a common livery colour as per aspiration of the policy. The colours of black or white offer much less scope for variants and therefore would be more effective in terms of a consistent colour livery. In terms of previous reference to dementia patients, The DSDC (Dementia Services Development Centre) suggests that it is colour contrast that is important in terms of recognition as opposed to actual colours, and therefore contrasting colours between door signs and vehicle colour may address concerns raised regarding recognition.

5.4.4 Convictions Policy

The Committee agreed to adopt a convictions policy that reflected those in place across the Greater Manchester Authorities. The draft policy reflects policies reviewed from several Greater Manchester Authorities although it is acknowledged that any Licensing Authority may amend their own policies at any time. The draft policy has been localised to Rossendale to reflect recommendation 29 approved by the Licensing Committee on 15 November 2016 in that the convictions policy details how convictions disclosed by applicants for vehicle proprietors licences will be dealt with (where the applicant does not hold a drivers / operator licence issued by Rossendale Council).

5.4.5 Documented process for applications from existing hackney carriage drivers to be licensed as private hire drivers and vice versa

The process as documented in the revised draft taxi licensing policy reflects current practice in place since August 2016. This practice/ policy sought a balance between ensuring the necessary practices are in place to provide equivalent safeguards as in place for a new applicant without causing unnecessary financial cost to the applicant, for example previous medical and practical driving test assessments will be accepted but a new enhanced DBS or access to an online update to an original enhanced DBS is required to cover the standard 3

year period for which the licence is normally issued.

5.4.6 Vehicle standards

Results of officer vehicle inspections together with a review of data from the DVSA MOT history check database (www.gov.uk/check-mot-history) has shown that the standard of maintenance on some vehicles falls short of what is expected, for example a vehicle may have been suspended on more than one occasion for having tyres with tread depth below the legal limit. Advisory information showed on MOTs sometimes shows as fails at the next MOT etc. The proposed policy is now transparent on how the Council intends to deal with vehicle proprietors who demonstrate poor standards of maintenance on vehicles. Any proprietor who is subject to his vehicle licence being revoked or refused due to poor standards of maintenance does have a statutory right of appeal to the Courts.

5.4.7 CCTV/Taxi camera specification

The issue of a CCTV specification appropriate for licensed vehicles has been researched. Officers recognise that the provision of audio in addition to video recording can greatly assist in the investigation of complaints (both in terms of police and local authority investigations). However case law exists that suggests blanket audio recording is not considered proportionate as a standard requirement for all licensed vehicles. Officers have researched documentation from the Information Commissioner Office as well as information from the Surveillance Camera Commissioner and consider that the standard based on that adopted by Rotherham Council is an appropriate standard. Whilst it is recognised that there is little evidence to suggest that Rossendale licensed holders have been involved in CSE related matters, it is acknowledged that Rossendale licence holders operate throughout the country with little or no opportunity for local intelligence gathering on driver conduct and the number of complaints received regarding driver conduct remains significant. Rotherham Council has been successful in defending appeals in Magistrates court regarding the imposition of requirements in respect of CCTV/ taxi cameras.

5.4.8 Signage

Sample signage i.e. door and roof lights will be available at the meeting for members' considerations. The provision of a uniform roof sign is seen as assisting in the livery of Rossendale licensed hackney carriage vehicles.

5.4.9 Private Hire Operators

Historically there has been little or no private hire licensing in Rossendale. Changes implemented by the Deregulation Act 2015 and technological advances have resulted in a significant growth of Rossendale's private hire trade. It is recognised that the majority of the journeys booked by the Rossendale licensed Private Hire Operators are undertaken outside of the Borough. The draft taxi licensing policy includes additional information on Private Hire Operator policy which reflects current practices in place within licensing.

5.4.1 Status

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The status section of the draft taxi licensing policy has been extended to include a statement to the effect that although regard has to be had to the policy the Council reserve the right to depart from the policy where it is considered appropriate to do so. Taxi trade representatives suggested wording to this effect should be added to the exceptional condition policy, it is considered that it is good practice to allow such discretion in respect of the whole of the taxi

licensing policy and ensure that decisions are not bound by the policy.

5.4.1 Driver assessment and knowledge test

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In order to satisfactorily complete the driver assessment and knowledge test, applicants and licence holders will need to have a level of English language and mathematical skills and geographical knowledge. The Council will work in partnership with local colleges and the taxi trade regarding the provision of training to persons who don't currently have the required skill level.

5.5 Taxi Licensing Enforcement Policy

The draft taxi licensing policy includes the current Enforcement Policy at Appendix Q. The current policy has been in place for a number of years and would benefit from a review to reflect legislative and other changes for example reference to case law regarding drivers suspension/ revocations, changes to practical driving assessments now that they are no longer delivered by the DSA. Recommendation 1.2 of this report addresses this issue.

5.6 Consultation with the taxi trade

5.6.1 As outlined in **Appendix 1**, an officer met with representatives of the taxi trade on 18 January 2017. Taxi trade representatives had previously been provided with a draft code of conduct and a draft exceptional condition policy for comment. Minor amends have been made to these documents following the trade meeting. The amends were predominately in respect of clarification, and the addition of information in the status section of this policy.

5.6.2 Taxi trade representatives, expressed their concerns about elements of the policy. They were invited to provide comments in writing and that the comments would be included within the report for members' considerations. The comments received can be found at **Appendix 6** of this report.

6. **COMMENTS FROM STATUTORY OFFICERS: SECTION 151 OFFICER**

6.1 Financial implications were previously noted in the 15 November report to the Licensing Committee.

6.2 The Council will continue to ensure that income and expenditure are matched.

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 The majority of the recommendations in this report relate to outline proposals approved by the Committee at its meeting on 15 November 2016. No formal consultations have been carried out since the last Committee meeting although a meeting has taken place with taxi trade representatives on 18 January.

As per the recommendations, consultation is advised in respect of proposed private hire licensing conditions (i.e. Operator Vehicle and Driver conditions).

8.2 There are no specific human resources implications.

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 The report builds on the outline proposals agreed by the committee at the meeting on 15th November 2016 and provides details of those proposals outlined.

The report also provides revised draft licence conditions in respect of the private hire trade and seeks the Committees approval to consult on the draft licence conditions and asks members to consider whether a review should be undertaken to update the taxi licensing enforcement policy.

Appendices	
Document	Place of Inspection
Update on implementation of recommendations approved by the Licensing Committee on 15 November 2016	Appendix 1
Draft licence conditions for Private Hire Drivers	Appendix 2
Draft licence conditions for Private Hire Vehicles	Appendix 3
Draft licence conditions for private Hire Operators	Appendix 4
Draft Policy for the Licensing of Hackney Carriage Drivers and Vehicles, Private Hire Operators, Drivers and vehicles including Appendix A Rossendale test criteria (unchanged from previous) Appendix B Hackney carriage Byelaw (unchanged from previous) Appendix C Guidelines to convictions (amended from previous) Appendix D Docs required for 1 st time driver application (info not previously provided in an appendix) Appendix E Docs required for renewal driver applicants (info not previously provided in an appendix) Appendix F Code of conduct (new provision) Appendix G Current Private hire driver licence conditions (unchanged from previous) Appendix H Hackney Carriage licence conditions (amended from previous) Appendix J Current Private Hire Vehicle licence conditions (unchanged from previous) Appendix K Exceptional condition policy (new provision) Appendix L Docs required for vehicle licence (info not previously provided in an appendix) Appendix M Intended use policy (info not previously provided as an appendix) Appendix N Standard conditions for Executive Hire (unchanged from previous) Appendix P Current conditions attached to Private Hire Operator	Appendix 5
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licences Appendix Q Councils Enforcement Policy Appendix R CCTV specification (new provision) Appendix S Docs required for applications for Private Hire Operators licences	
Comments received from taxi trade reps following taxi trade meeting 18 January 2017 Appendix 6.1 Comments from Charles Oakes re dress code Appendix 6.2 Comments from Robert Back re roof signs	Appendix 6