

REPORT TO CABINET

27 June 2018

Subject:	Private Hire and Hackney Carriage Policy Amendments
Presenting Cabinet Member:	Councillor Elaine Costigan – Cabinet Member for Public Health and Protection
Director:	Executive Director – Adult Social Care, Health and Wellbeing – David Stevens Director – Prevention and Protection – Stuart Lackenby
Contribution towards Vision 2030:	
Key Decision:	Yes
Forward Plan (28 day notice) Reference:	SMBC18/06/2018
Cabinet Member Approval and Date:	Councillor Elaine Costigan – 7.6.2018
Director Approval:	Stuart Lackenby
Reason for Urgency:	Urgency provisions do not apply
Exempt Information Ref:	Exemption provisions do not apply
Ward Councillor (s) Consulted (if applicable):	Ward councillors have not been consulted
Scrutiny Consultation Considered?	Scrutiny have not been consulted
Contact Officer(s):	Stuart Lackenby – Director of Protection and Prevention stuart_lackenby@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

1. Approve the amendments to the Private Hire and Hackney Carriage Licensing Policy as set out in Appendix 1, to be implemented with effect from 1 August 2018.

1 PURPOSE OF THE REPORT

- 1.1 The Council implemented a revised Private Hire and Hackney Carriage Licensing Policy on 1 October 2017.
- 1.2 This policy has now been in place for 9 months and a number of required amendments and enhancements have been identified that will support the efficiency and sustainability of Private Hire and Hackney Carriage Licensing in Sandwell.
- 1.3 This report requests approval to amend the Policy as set out in Appendix 1 and for this amended policy to be implemented from 1 August 2018.

2 IMPLICATION FOR THE COUNCIL'S AMBITION

- 2.1 The approval and implementation of the amended Private Hire and Hackney Carriage Licensing Policy will improve the safety and the customer experience of local people wishing to use these services.
- 2.2 The proposed recommendations will also strengthen the Council's ability to enforce the policy, respond more effectively to issues as they become identified and seek to develop new ways of keeping people safe that directly contribute to 'our communities feeling safe, more protected and confident in their homes and neighbourhoods'.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 On 22 March 2017, the Cabinet considered a report on the Review of the Private Hire and Hackney Carriage Policy in Sandwell (Minute No. 54/17). The Cabinet resolved that the revised Private Hire and Hackney Carriage Policy (Taxi Policy) be approved for consultation and that a further report be presented to Cabinet following the outcome of the consultation.
- 3.2 Consultation on the revised Taxi Policy was undertaken from the 6 April 2017 until the 12 May 2017. The consultation generated 210 responses which were analysed and considered in the revision of the Councils Policy.
- 3.3 On 30 August 2017, a revised Taxi Policy was approved for implementation from 1 October 2017 (Minute No. 142/17). This policy has now been in place for 9 months and a number of required amendments and enhancements have been identified that will support the efficiency and sustainability of Private Hire and Hackney Carriage Licensing in Sandwell.

3.4 A comparison table is provided in Appendix 1 which details current and recommended policy detail. The following summary provides detail of the recommended amendments to the Council's Private Hire and Hackney Carriage Policy.

3.4.1 Online applications and renewal – The Council's current licensing process involves a paper based filing system and multiple face to face interactions with drivers at both application and license renewal stages. A move to online submission of applications, renewals and associated documentation through the Council's My Sandwell portal will make the process significantly more efficient for both drivers and the Council. It is therefore recommended that the Council's Taxi Policy be amended to support a move to online applications and renewals. This will also involve moving to online submissions of Disclosure and Barring Service (DBS) applications.

3.4.2 Document Formatting – The current Taxi Policy is not paginated and does not include a table of contents making the document difficult to navigate. It is recommended that the Councils Taxi Policy be fully paginated and a table of contents inserted.

3.4.3 Cashless payments – The Council offers both cash and electronic payment methods to drivers as part of the licensing process. Receipt of cash payments requires time consuming cash management activity to comply with the Councils financial regulations. A move to cashless payments is recommended to make more efficient use of officer time and to support the online application process.

3.4.4 Non UK criminal record checks – The Council's Taxi policy at section 2.2 'Making and Application for a Driver's Licence' at point 7 states 'If you have lived overseas you must produce a criminal record check from the Country/Countries covering the period you lived in the country'. This clause is having a detrimental impact for both new and existing drivers

It is therefore recommended that the Policy be amended as defined in appendix 1 to specify the age from which a criminal record check is required, to introduce a differentiated approach for new and existing drivers and to establish a clear position on the production, validity and in some cases a lack of a non UK criminal record check.

3.4.5 Insurance– As defined in the Taxi Policy the date of expiry on a licenced vehicle's registration plates are based upon the expiry date of the vehicle driver's insurance documents. Due to the high cost of private hire and hackney carriage insurance drivers often insure their vehicles on a month by month basis.

This approach is unique to Sandwell and results in drivers having to regularly attend the Licensing office for new vehicle registration plates whenever their insurance has expired and subsequently they renew. It is therefore recommended that vehicle registration plates are dated to match the duration of the vehicle licence with drivers asked to produce evidence of insurance at the point of their vehicle licence renewal. Failure to produce insurance documents would result in the vehicle licence not being renewed.

The Policy also includes a £50 late presentation fee to drivers in the event that insurance documents are not produced before the date of insurance policy expiry. This fee is issued to drivers who despite having continuous insurance have not been able to attend the licensing office. The sanction for a lack of insurance is a suspension of the vehicle licence. It is therefore suggested that the £50 fee be removed from the policy and enforcement action used to ensure licensed vehicles are appropriately insured.

3.4.6 Drop-ins and appointments – The Policy rigidly specifies what can be dealt with by the Licensing office at both appointments and drop-ins. This often results in prolonged waiting times for drivers attending the office. It is proposed that the licensing office is provided with more flexibility to deal with interactions with drivers so to reduce waiting times.

3.4.7 Vehicle written off following a collision – The policy currently does not contain any provision which allows vehicles that have been lawfully repaired after being written-off following a collision to be used as licensed vehicles. This position is not adopted in any other authority across the Black Country and results in a detrimental impact for Sandwell Licensed drivers, who are forced to buy a new vehicle even if their existing vehicle can be repaired.

Vehicles written-off following a collision are associated with the following categories;

- Category A, or 'Scrap' cars, remain the most badly damaged vehicles. They can't be repaired or even broken for spares.
- Category B, or 'Break' cars, are again very badly damaged and beyond repair, but they can be 'broken' into parts for salvage and recycling.
- Category S, or 'Structural' cars have incurred damage to the basic structure that gives a car its strength. These 'S' cars can be fixed and re-sold, but you should ensure that the work has been checked by a qualified mechanic.

- Category N, or 'Non-structural' cars, are equivalent to current Cat D cars. Their damage isn't to the core structure, but there might still be some safety-related parts in areas like suspension or steering that will need to be replaced.

Fully repaired vehicles that have been written off as category S and N can be lawfully used on UK roads once they have passed a MOT test.

It is recommended that the Policy be amended to allow the use of category S and N vehicles once they have passed both the MOT and Sandwell's vehicle TAXI test. Such vehicles must have been licenced with Sandwell prior to the category S or N status.

4 THE CURRENT POSITION

- 4.1 The Licensing Office is working to the current Private Hire and Hackney Carriage Policy and whilst overall being successfully implemented the elements of the policy detailed above are causing issues for drivers and preventing the service from operating as efficiently as possible.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 The revised Private Hire and Hackney Carriage Policy implemented on 1 October 2017 was subject to extensive consultation. The amendments detailed in this report have been subject to consultation with the Sandwell Licensed Vehicle Forum which is attended by local drivers, operators and the Sandwell Private Hire Association which represents over 500 drivers within the borough. The Forum has met on a monthly basis since July 2017 with the Forum in support of the amendments detailed in this report.

The Chair of the Council's Licensing Committee has been consulted and is supportive of the amendments set out in this report.

6 ALTERNATIVE OPTIONS

- 6.1 The proposals and recommendations contained within this report aim to improve the safety of Sandwell communities and the efficiency of the licensing service.
- 6.2 All recommended changes to the proposed Private Hire and Hackney Carriage Licensing Policy have been considered to provide the most effective option that will improve the safety and customer experience for local people.
- 6.3 In the event that the recommendation of this report is not approved a number of Sandwell Drivers will be unduly impacted by the existing Policy and the service will not be able to operate as efficiently as possible.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 The Corporate Risk Management Strategy has been complied with to identify and assess the significant risks associated with this decision. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. The assessment has determined that there are no significant risks arising from the decisions being sought.
- 7.2 There are no adverse budget implications or any other significant risks associated with the Policy amendments detailed in this report.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 All proposals and recommendations contained within the report comply with legislation as set out within the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.
- 8.2 This report and all Appendices to this report have been reviewed by officers from within the Councils Legal Service.
- 8.3 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states:-
- (1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:
Provided that a district council shall not grant a licence—
- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.

- (2) Without prejudice to the generality of the foregoing subsection—
- (a) a district council may require an applicant for a driver's licence in respect of a hackney carriage or a private hire vehicle—
 - (i) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or a private hire vehicle; and
 - (ii) whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the district council as to his physical fitness to be the driver of a hackney carriage or a private hire vehicle;
- (3) If any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section, he shall be guilty of an offence.

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage-
- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
 - (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-
- (a) that he has since the grant of the licence-
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 An Equality Impact Assessment has been undertaken as part of the preparation of this report in line with council policy.
- 9.2 The results of the assessment have identified that the proposals and recommendations contained in this report will not have an adverse impact on any group with protected characteristics.
- 9.3 The proposals are both reasonable and a proportionate response to the primary objective of protecting the public and improving the service they receive; as well as making sure that drivers are equipped with the relevant skills to safeguard vulnerable customers and protect themselves.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 The requirements of the General Data Protection Regulations will be observed in the design and implementation of the amended policy.

11 CRIME AND DISORDER AND RISK

- 11.1 The proposed Private Hire and Hackney Carriage Licensing Policy, if approved, seeks to reduce instances of crime and disorder that may impact on all occupants (passengers and driver) of Sandwell licensed Hackney Carriage and Private Hire vehicles.

12 SUSTAINABILITY OF PROPOSALS

- 12.1 The amendments to the Taxi Policy described in this report will contribute to the sustainability of the service, allowing the Council to be competitive with neighbouring authorities whilst maintaining its focus on public safety.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 The recommendations and proposals contained within this report, if approved will have positive implications on the health and wellbeing and social value through continuing to provide employment opportunities for local people

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 This report does not have any impact on any Council managed property or land

15 **CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

15.1 This report makes a recommendation for approval by Cabinet in respect of proposed changes to the Private Hire and Hackney Carriage Licensing Policy. These recommendations have been proposed following evaluation of the service and feedback from licensed drivers.

15.2 A significant amount of feedback has been received from the private hire and hackney carriage trade (operators and drivers) during the last 9 months of policy implementation. The Council has carefully considered all feedback and this report demonstrates that where practicable, appropriate and legal to do so, it has positively responded to feedback provided.

16 **BACKGROUND PAPERS**

16.1 **Source Documents:**

- The Department of Transport Circular 2/92 and Home Office Circular 13/92
- Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance - March 2010
- Professor Alexis Jay's Independent Inquiry into Child Sexual Exploitation (CSE) in Rotherham was commissioned by Rotherham Metropolitan Borough Council in October 2013 and published in August 2014
- Report of Inspection of Rotherham Metropolitan Borough Council:
- Louise Casey – February 2015
- Rotherham Metropolitan Borough Council's Private Hire and Hackney Carriage Licensing Policy.
- Local Government Association (LGA) Guidance on Convictions Policy 1 August 2017.

17 **APPENDICES:**

Appendix 1 - Comparison Table Private Hire and Hackney Carriage Licensing Policy

Stuart Lackenby
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