

DISCUSSION PAPER ON THE POTENTIAL CHANGES TO THE TAXI LICENSING POLICY FOLLOWING THE PROPOSED STATUTORY GUIDANCE

REPORT OF: Tom Clark, Head of Regulatory Services

Contact Officer: Jon Bryant, Hackney Carriage & Private Hire Licensing Officer

Email: jon.bryant@midsussex.gov.uk Tel: 01444 477076

Wards Affected: All

Key Decision No

Purpose of Report

- 1 This report seeks the views of the Licensing Committee on the strategic direction for the proposed review later this year of the Taxi and Private Hire Licensing Policy following the proposed Statutory Guidance by the Department of Transport (DfT).

Summary

- 2 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services. The Licensing Committee responded to the Public Consultation on the Draft Statutory Guidance issued by the DfT in April 2019. While the Guidance is currently only in draft form, we understand from the DfT and Institute of Licensing that there will be little change to the draft consulted upon. The Council will need to undertake a full review, consultation and adoption of a new Policy once the Statutory Guidance is issued.

Recommendations

- 3 **Licensing Committee consider the proposals in this report and recommends that Officers progress work to incorporate these measures within the Council's Taxi and Private Hire Policy in preparation of the issue of the Statutory Guidance.**
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Background

- 4 The current Hackney Carriage and Private Hire Licensing Policy was re-adopted in 2017. When the Statutory Guidance is issued we will need to review our policy. The proposed changes will be considered by the Scrutiny Committee for Community, Customer Services and Service Delivery prior to public consultation and adoption by Council.
- 5 It is important to emphasise that this report is intended to form a basis for the Policy direction of the Council, and for officers to develop the policy which will be presented for consultation with the approval of the Scrutiny Committee.
- 6 A summary of the expected changes required by the Statutory Guidance are as follows:

Hackney Carriage and Private Hire Drivers

- a. Adoption of the proposed definition of the fit and proper test and that the applicant or licence holder should not be given the benefit of the doubt during decision making.
- b. The draft Guidance recommends that all drivers are required to subscribe to the DBS update service, and that Authorities check their criminal histories every 6 months. It also recommends that drivers are required to 'self-report' any arrest, charges or conviction within 48 hours (we currently require notification within 7 days) and consequently it is proposed to include these measures in our Policy revision.
- c. It is further suggested that in some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for the authority to make direct referrals to the DBS.
- d. Update the policy that the Authority will seek criminal records information from overseas when an applicant has previously lived outside the UK for any period of more than three continuous months since the age of 18.
- e. Introduction of mandatory Safeguarding Awareness training. If a driver fails to complete it within a fixed time period, then his licence will be suspended until the safeguarding training is completed. A number of our Licensed Drivers have previously completed this training when it was voluntary. However, there are still drivers who failed to attend this training and we have had new drivers licensed since the last round of training. Following previous discussions, we have identified two providers for face to face training.
- f. Introduction of mandatory Disability Awareness training. If a driver fails to complete the training within a fixed time period, then the licence will be suspended until this training is completed. Following previous discussions, we have identified a provider for face to face training

CCTV in Licensed Vehicles

- g. In September 2017 the government established a Task and Finish Group (TFG) on Taxi and Private Hire Vehicle Licensing with the remit to consider evidence relating to the adequacy of current taxi and private hire vehicle (PHV) licensing authority powers, as set out in legislation and guidance, and to make recommendations for actions to address any priority issues identified. The TFG recommended that all licensed vehicles are fitted with CCTV covering the inside of the vehicle in order to provide greater protection to customers and drivers. The draft Guidance discusses the benefits and risks to using CCTV, concluding that while only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. It is also important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHVs will be responsible for the data. It is important that any decision to mandate CCTV fully considers concerns regarding privacy and how systems are configured. Some drivers have already installed CCTV in their vehicles although there is no requirement for them to. By mandating the universal

use of CCTV, the benefits to both drivers and the public could be realised, with improved authority control over the system specification and use.

As such, the Committee are invited to consider whether the use of CCTV in licensed vehicles is a direction which it wishes officers to explore when reviewing the Policy.

Private Hire Vehicle Operators

- h. The draft Guidance also states that Licensing Authorities should be satisfied that PHV operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Councils should request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed and produce a policy on employing staff with a criminal record.
- i. Consider introducing a condition to an Operator Licence that they will advise the authority when any driver is subject to complaints regarding safeguarding, dishonesty, abusing customers or more than one complaint in any 12 months.
- j. The use of a driver who holds a Public Carriage Vehicle (PCV) licence and the use of a public service vehicle (PSV) such as a minibus to undertake a PHV booking should not be permitted as a condition of the PHV operator's licence.
- k. Include the licensing of stretched limousines within the policy.

7 Licensed Vehicle Emissions

Air quality and climate change has been of increased concern since the Policy was last reviewed. The Council currently does not have an emission standard for licensed vehicles, however we will not licence vehicles over 10 years old.

Whilst the proportion of licensed vehicles makes up a small percentage of traffic in and around Mid Sussex at any one time, it is recognised that licensed vehicles are used regularly throughout the day on multiple journeys. As such, the Committee are invited to consider any strategic direction for the Policy to improve air quality in the District.

The Committee may wish to consider the promotion of less polluting vehicles. Any radical measures to remove diesel vehicles or require a hybrid or electric fleet are considered premature due to the purchase cost of vehicles being prohibitive and lack of charging infrastructure. The Committee may feel that a Policy based upon an age limit or the current emissions standard with a reasonable lead in would be more appropriate e.g. instead of an age limit of less than 10 years it could be reduced to less than 5 years for the first registration of a taxi or private hire vehicle and incentivising electric vehicles post 2020 following the delivery of EV charging points across the District.

8 Other policy changes that are local to Mid Sussex area that the Council may wish to consider, but are covered in the proposed Statutory Guidance, are as follows:

- a. Review the duration of licences - there have been representations from older drivers (over 65) regarding 3 year licences. They have enquired about the possibility of being allowed to apply for a yearly licence. From 65 they must have a yearly medical to remain licensed and some drivers feel that they would only want to continue for either 1 or 2 years.
- b. Consider applying an “Intended use policy” for hackney vehicles – representations have been received of licensed Mid Sussex Hackney Vehicles working predominately in Brighton on the UBER platform. Mid Sussex has a cap of 154 of hackney carriage vehicles that they will be licence. If vehicles are working remotely away from the District it could reduce the availability of vehicles to the residents of Mid Sussex. There are also potential issues regarding ensuring the driver and vehicle compliance. In the Autumn the Council are undertaking their unmet demand survey and this will provide us with an opportunity to challenge the set number of vehicles.
- c. On 1st October 2022 Hackney vehicles will have to display door signs with the Mid Sussex Logo and licence number. The committee may wish to consider applying the same requirement for Private Hire vehicles. This would not only provide consistency across the fleet of vehicles it would provide extra visibility and reassurance to the travelling public that they are getting into a locally licensed vehicle.
- d. The Council may wish to confirm in their Policy that they will not license any vehicle which has previously been recorded as a write off. Potentially some write off vehicles can be repaired and returned to the road, however it is difficult to ensure that any repairs have been completed to a professional standard.
- e. Consider applying a condition to wheelchair accessible vehicles (WAV) licences that the vehicle must always carry the appropriate equipment to transport wheelchair passengers otherwise the vehicle licence will be suspended immediately.
- f. Consider adding a condition to the vehicle licence that when credit cards are accepted by a driver they cannot set a minimum amount. Currently some drivers will only take payment from them if the fare is over a certain amount – usually £10. There has been anecdotal evidence that some drivers are using this as an excuse to avoid short journeys.
- g. Amend the current condition relating to smoking to include the prohibition of licensed drivers or passengers vaping in licensed vehicles

Policy Context

9 In relation to taxi and private hire licensing, there are specific powers contained in the Town Police Clauses Act 1847, Transport Act 1985 and Local Government (Miscellaneous Provisions) Act 1976. These allow the Council to specify the requirements that vehicles and drivers must meet in order to be licensed, and to refuse a licence to drivers if we are not satisfied

that the drivers are fit and proper persons to hold a licence. They also allow conditions to be attached to licences.

- 10 The draft Statuary Guidance comes from powers under the Policing and Crime Act 2017 which enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals from harm when using these services.
- 11 The draft Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's Best Practice Guidance was last updated. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 12 The draft Statutory Guidance makes it clear that Licensing Authorities will be expected to follow and implement the recommendations and will be at risk of legal challenge should they choose not to.

Financial Implications

- 13 The Council keeps the fees and charges under review annually and aims to recover as much of the cost of regulating taxi and private hire licensing services as we are legally able, through fees and charges paid by applicants and licence holders. Any additional costs arising from implementing and enforcing this policy will, where possible, be met through changes to taxi and private hire licence fees and charges.

In terms of potential costs to the trade, drivers are already able to sign up to the DBS update service at a cost of £13 per annum. By signing up to the update service, this would negate the need for drivers to pay for a new DBS every 3 years at an approximate cost of £71.

There is likely to be a cost to be passed onto drivers for attendance at mandatory safeguarding and disability awareness training.

According to the Task and Finish Group report, in vehicle CCTV systems can cost as little as a new set of tyres. Any costs associated with the taxi trade can be included in the Council's Fare Calculator to enable recovery through the Fare tariff.

Risk Management Implications

- 14 None identified

Equality and customer service implications

- 15 The policy is intended to protect the public, including those who are vulnerable owing to their age or disability, and through our consultation with a range of stakeholders, including the police, we would seek to ensure we have got the balance right in this respect. Measures which improve safety and standards in the taxi and private hire trades would improve access to the service for customers from all groups.

Background Papers

None.