



Public Agenda Item: **Yes**

Title: **Hackney Carriage and Private Hire Licensing Policy**

Wards Affected: **All**

To: **Licensing Committee** On: **31 January 2013**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Steve Cox**
☎ Telephone: **01803 208025**
✉ E.mail: **Steve.cox@torbay.gov.uk**

1. What we are trying to achieve

- 1.1 Members agreement to the new Hackney Carriage and Private Hire Licensing Policy referred to as 'The Policy'. This Policy shall amend and replace the existing Policy.
- 1.2 To provide Members with an opportunity to approve the Policy and to consider all representations received during the consultation period, some of which have been incorporated within the Policy. See Appendix 1.

2. Recommendation(s) for decision

- 2.1 To approve the Policy.

3. Key points and reasons for recommendations

- 3.1 By the provisions of the Town Clauses Police Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles, Private Hire Operators and the drivers of those vehicles within Torbay.
- 3.2 Torbay Council, as the Licensing Authority has been given the responsibility under the legislation to provide a framework within which vehicles, operators and drivers are licensed for the safety of the public and other road users. This Policy is written to achieve that responsibility and incorporates the legal changes and current best practice. The Policy provides for a more robust licensing regime within Torbay than that which currently exists.

- 3.3 This Policy was subject to a statutory 12 week consultation period. This period concluded on 2nd January 2013 and 60 representations were received. See Appendix Two. These representations have been considered and where appropriate the Policy has been amended.
- 3.4 Approval of the Policy is a Licensing Committee decision. Any challenge to the Policy would have to take place within three months of it being adopted. Such a challenge would be by way of Judicial Review.

For more detailed information on this proposal please refer to Appendix A.

**Frances Hughes
Executive Head Community Safety**

Appendix A – Supporting information to Report

A1. Introduction and history

- A1.1 By the provisions of the Town Clauses Police Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles, Private Hire Operators and the drivers of those vehicles within Torbay.
- A1.2 Torbay Council, as the Licensing Authority, has been given the responsibility under the legislation to provide a framework within which vehicles, operators and drivers are licensed for the safety of the public and other road users. This Policy is written to achieve that responsibility and incorporates the legal changes and current best practice. The Policy provides for a more robust licensing regime within Torbay than that which currently exists
- A1.3 The aim is to publish the new Policy prior to the Hackney Carriage and Private Hire renewals which are due on the 1st May 2013.
- A1.4 Although the new Policy has been amended significantly, the majority of the content of the existing Policy is incorporated within it. The major changes are as follows:
- The introduction of a set of Licensing Objectives upon which decisions will be based.
 - The introduction of Driver Standard Assessments for all new applicants and those who obtain 6 or more penalty points in a licensed year.
 - Extending the medical exemptions to include those who cannot comply with aspects of the Equality Act 2010, most notably the ability to assist those who are wheelchair bound. This includes the clarification of the duties under the Equality Act 2010.
 - Replacing the section on the assessment of convictions regarding the ‘fit and proper person’ test with a more robust and more detailed document.
 - Stating a time frame on a renewal application which will result in an applicant having to submit a new application.
 - Amendment to the age of vehicles when they first become licensed, being no older than four years and a mileage of less than 60,000 miles.
 - Extending the life of Wheelchair Accessible Vehicles to 10 years, with the requirement of two additional MOT tests.
 - Changing the specification on engine sizes and luggage space in specific circumstances.
 - Clarification on when additional vehicle tests are required and who is responsible for the payment of those tests.
 - The inclusion that the Tariff card must be displayed in Hackney Carriage Vehicles.
 - The introduction that Private Hire vehicles have permanent adhesive door stickers
 - The introduction of signage inside all vehicles, advising users how to complain, if necessary.
- A1.5 This Policy was subject to a statutory 12 week consultation period. This period concluded on 2nd January 2013 and 60 representations were received. See Appendix Two. These representations have been considered and where

appropriate the Policy has been amended.

A1.6 The changes to the Policy resulting from representations received during the public consultation are covered below.

- Criminal Record Bureau Checks (CRB) are now called Disclosure & Barring Service Disclosures (DBS)
- Concerns were raised about the new proposed maximum age for when a vehicle is first licensed to be no older than three years. On review this has been changed back to four years but where an initial application is made for such a vehicle, the mileage shall not be over 60,000 miles.
- A condition that allowed vehicle owners to apply for an extension to the life of a licensed vehicle above eight years, where it is deemed that the vehicle is in exceptional condition has been added. This provision is contained in the existing Policy but wasn't contained in the new Policy.
- The conditions on spare tyres have been altered to take into account that some manufactures do not provide spare tyres but instead provide run flat tyres.
- Concerns have been received regarding the use of adhesive door signs. This condition has been introduced into the new Policy due to enforcement costs being incurred by the Licensing Authority for failure of some drivers to use the existing magnetic door signs. These representations have been from those who undertake corporate work, i.e. chauffeur driven work, weddings or funerals, although the latter two are not licensable. If an owner can demonstrate to the satisfaction of the Licensing Authorities that a significant amount of the fleet or individual vehicle's work is of this nature, then an exemption may be given.
- The telephone number on any door sign must be a landline number as this is the legal required for making private hire bookings.
- The dress code has been amended slightly to allow tailored hats as part of a chauffeur service. Otherwise hats can only be worn outside of the vehicle but not whilst in the vehicle unless it is for religious purposes.

A1.7 Consideration was given to all representations received following the public consultation period but some of the issues raised did not result in an amendment to the Policy. These included the following

- A further reduction in engine size.
- Alterations to the new Driver Standard Assessments for new drivers and existing drivers who receive 6 points.

A1.8 Incorporated into the draft Policy was a number of questions requested by Members of Licensing Committee at the Licensing Committee meeting on the 27th September 2012. These questions are repeated below with the following responses.

A1.9 In 5.13, The Licensing Authority aspires that all drivers are trained to BTEC Level 2 Award in Transporting Passengers by Taxi and Private Hire standard which includes disability awareness training in both mental and physical issues. *The Licensing Authority would be particularly interested in any views on this and how this could be achieved.*

One representation was received which support the aspiration, but since the costs had increased to £500 they felt that they could not support any mandatory requirement. The recommendation is to leave the paragraph unchanged due to the current economic climate.

A1.10 In 14.7, The Licensing Authority would consider applications for 'novelty vehicles', but this would need to be considered separately by Licensing Committee. It should be noted however that Torbay has a restricted policy on numbers of hackney carriages at this time. *The Licensing Authority would be particularly interested in any views on this and how this could be achieved.*

No responses were received. The recommendation is to leave the paragraph unchanged.

A1.11 In 14.16, The Licensing Authority aspires to achieve 20% wheelchair accessible vehicles by 2018 with regard to both hackney carriage and private hire vehicles. *The Licensing Authority would be particularly interested in any views on this and how this could be achieved.*

One response was received. It enquired where the figure of 20% originated and if this could be supported by consultation. Their view is that it could only be achieved by offering a subsidy. This wouldn't be possible at this time. The policy has already extended the life of Wheelchair Accessible Vehicles to ten years and this has been received positively, so the recommendation is that the aspiration remains and this is reviewed in the summer of 2015 and a report brought back to the Licensing Committee then, for their consideration.

A1.12 In 14.35, The Licensing Authority has not implemented a livery (colour) Policy, however this remains under consideration for the future. *The Licensing Authority would be particularly interested in any views on this and how this could be achieved.*

No responses were received. The recommendation is to leave the paragraph unchanged at this time, as this is a matter that is being considered by the Law Commission currently.

A1.13 In 14.40, A driver found smoking or permitting smoking to take place in a licensed vehicle, will be subject to enforcement action by either the Licensing Authority or the Council. *The Licensing Authority would be particularly interested in any views on whether this could be extended to a radius of 2metres from the vehicle and how this could be achieved.*

No responses were received. The recommendation is to leave the paragraph unchanged, as this is not a requirement by law.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

Approval of the Policy is a Licensing Committee decision. Any challenge to the Policy would have to take place within three months of it being adopted. Such a

challenge would be by way of Judicial Review.

A3. Options

- A3.1 (i) To agree the Policy
- (ii) To amend and agree the Policy
- (iii) To refuse to endorse the Policy

A4. Summary of resource implications

- A4.1 There are no significant additional resource implications that will derive from the Council discharging its routine and ongoing responsibilities, under the Hackney Carriage and Private Hire licensing regime.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

- A5.1 There are equalities and environmental sustainability implications, due to the implementation of the Equality Act 2010 and the alteration to the vehicles specifications on engine sizes. There are no direct Crime and Disorder implication.

A6. Consultation and Customer Focus

- A6.1 There was a statutory period of 12 weeks public consultation on this draft Policy. This took place between the 11th October 2012 and the 2nd January 2013. This included consultation with those involved in providing the services and those using them.

A7. Are there any implications for other Business Units?

- A7.1 There are no significant implications for other business units relating to this report.

Appendixes

Appendix 1 Hackney Carriage and Private Hire Licensing Policy 2013

Appendix 2 Representations from 59 members of the public

Documents available in members' rooms: None

Background Papers:

The following resources and documents were used to compile this report:

None