



Public Agenda Item: **Yes**

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

Wards Affected: **All**

To: **Licensing Committee** On: **17 October 2019**

Key Decision: **No**

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

Contact Officer: **Gary O'Shea**
Telephone: **01803 208025**
E.mail: **Gary.oshea@torbay.gov.uk**

1. What we are trying to achieve

- 1.1 For Members to consider comments made during consultation on a revision to the Hackney Carriage and Private Hire Licensing Policy ('The Policy') and to agree that the amended Policy should be adopted to replace the existing Policy.

2. Recommendation(s) for decision

- 2.1 To approve the Policy as recommended and attached at **Appendix 1**.

3. Key points and reasons for recommendations

- 3.1 Under 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 duty to provide a framework within which vehicles, operators and drivers are licensed for the safety of the public and other road users. This Policy sets the expected standards and expectations and identifies how the Licensing Authority will conduct its functions in this regard.
- 3.3 The revised Policy, attached in **Appendix 1**, has been updated in order to provide some additional clarification following a more detailed update that was ratified by Licensing Committee on 1st November 2018.
- 3.4 This draft Policy was subject to a 6 week consultation period. This period concluded on 1st October 2019.

- 3.5 In order to provide transparency and clarity for the taxi trade, the proposed changes were discussed at a meeting of the Taxi and Private Hire Consultative Group (taxi group) on the 4th September 2019, which comprises officers of the licensing team and appointed members of both the Hackney Carriage and Private Hire Trades.
- 3.6 The Policy was emailed to all current licensed drivers and proprietors, other key groups and charities, as well as responsible authorities and was published on the consultation page of the Council website on 20th August 2019.
- 3.7 Some points were raised at the taxi group meeting, although in general there was agreement to the changes. The points raised are included in Annex A as part of this report.
- 3.8 In addition to points raised at the taxi group meeting, there was one representation received from a licensed driver, this was received by email on 19th September 2019 and this is attached at **Appendix 2**. This representation has been considered, although this has not resulted in any alteration to the draft Policy or to the recommendation to the Licensing Committee. The reasoning for this is outlined in **Annex A** of this report.
- 3.9 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 Annex A.

Steve Cox
Environmental Health Manager (Commercial)

Annex A – Supporting information to Report

A1. Introduction and history

- A1.1 Under 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 a duty to provide a framework within which vehicles, operators and drivers are licensed for the safety of the public and other road users. This Policy sets the expected standard and expectations in this regard.
- A1.3 The revised Policy, attached in **Appendix 1**, has been updated in order to provide some additional clarification following a more detailed update that was ratified by Licensing Committee on 1st November 2018.
- A1.4 This draft Policy was subject to a 6 week consultation period. This period concluded on 1st October 2019.

The main alterations to the Policy are outlined in paragraphs A1.5 to A1.XX below:

- A1.5 Paragraph 5.11 of the Policy in **Appendix 1**, tightens the requirements for Driver Standards Checks. This follows concern over cases of repeated failure, due to sub-standard driving ability of some applicants. Therefore this update provides that applicants receive a maximum of 3 attempts. If on the third attempt the test is still not passed, the application will be discontinued and no further application will be considered for a minimum period of 12 months from the date of the third failure. This is incorporated into the Policy for the purpose of public safety.
- A1.6 The requirement relating to a Disclosure and Barring Service check, as outlined in paragraph 9.4 of the Policy has always been that it should be an enhanced check, this is therefore clarified.
- A1.7 Vehicle compliance tests were brought in under the Policy change made in November 2018. Following further research and having noted comments from the taxi group, the requirement in 14.26 of the Policy is slightly amended to reduce the burden on those proprietors with vehicles aged up to 4 years. Vehicles of under 4 years should generally still be of a high standard and therefore an annual MOT will provide the necessary safeguards. The requirement for vehicles over 4 years is retained in the interests of best practice and public safety.

The one response received to the full consultation, which is attached at **Appendix 2** is concerned at the cost of compliance tests and disagrees with the requirement. However, this is something that is already in the Policy for reason of public safety. The suggested amendment, however, does remove the requirement for a compliance test in cases where a vehicle is less than 4 years old.

- A1.8 Door signs have always been required on private hire vehicles, these may be magnetic or permanent vinyl. This requirement is retained, however repeatedly, private hire vehicles are found to be operating without the appropriate signage affixed to the vehicle. For this reason, paragraph 14.41 of the Policy clarifies this

requirement and sets out the consequences of failing to comply.

- A1.9 The change in the livery policy which came into effect under the current Policy created some confusion with regard to seasonal Hackney Carriage vehicles. Appendix D to the Policy has therefore been clarified to address this confusion.
- A1.10 The current Policy also requires that Hackney Carriages must be black in colour. As it stands, this must be the original vehicle colour. Having noted concern from trade members and in order to assist proprietors to meet the condition requirements without the cost necessarily of purchasing a new vehicle, the section is updated to permit a full respray, provided that this is of a professional standard.
- A1.11 Modern vehicles are not generally manufactured with full spare wheels. They vary from full spare, to space saver wheels, puncture repair kits or run flat tyres. In the interests of public safety the section on tyres in Appendix D of the Policy is clarified to limit use of a vehicle where it becomes necessary to operate other than with the standard wheels/tyres.
- A1.12 Some additional points were raised at the Taxi group meeting, although in general there was agreement to the changes. The main concern raised links to disability and dementia awareness training, which was introduced following the last Policy update in November 2018. This was introduced by Members of the Licensing Committee. However, it was not one of the suggested changes to the Policy and had not therefore, been consulted upon.

The trade has therefore request that this is reconsidered and that perhaps it should undergo full consultation before being introduced, should it still be considered necessary. Comments included 'another costly hoop for new drivers', 'is there any evidence of need', 'how can it be introduced without consultation'.

Following the decision to introduce disability and dementia awareness training, a provider has been sourced. Officers have attended a training session and this is found to be suitable for purpose. In light of the above comments, clarification is requested from Members of the Licensing Committee as to how they wish to proceed with this requirement. The cost would be up to about £55 per person. The licence holder will be expected to pay this cost.

- A1.13 Also raised at the taxi group was a request that the requirement to carry a phone number on private hire vehicle door signs, should be made optional. This is requested on the basis that not all vehicle operators wish to advertise their business. However, this is currently a Torbay Council condition of licence.

The Licensing Committee have the option of removing this condition. The only concern in this regard is that a Private Hire vehicle needs to be clearly distinguishable from a Hackney Carriage vehicle and therefore, if Members are minded to agree that the phone number is removed, it would make sense from a safety perspective that a requirement to carry signage on the door signs to the effect of 'pre booked only' or 'advance fares only' should be added, along with the vehicle licence number and the Torbay Council logo in order to create that distinction and uniformity.

A1.14 The changes to the Policy last year, removed a minimum cubic capacity (cc) requirement for vehicles, replacing it instead with Brake Horse Power (BHP) as a measure. This was in order to provide a consistent measure across vehicle types, given that electric vehicles are not measured in cc but instead in kilowatts (KW). The level was set at 100 BHP, however, this has had the effect of restricting the use of some efficient vehicles. In view of this, it is suggested that the Policy be amended to 95 BHP.

A1.15 The final matter of concern for the taxi group was around the minimum luggage (boot) space requirement, where it relates to Multi Passenger Vehicles (MPV's). Due to the layout of many of these vehicles, particularly those capable of carrying 6 passengers e.g. Ford Galaxy and Volkswagen Sharan, they cannot comply with the luggage space requirement and traditionally therefore, have been refused.

The main reasons for the requirement is to ensure that there is adequate space to carry passenger's items e.g. suitcases, shopping etc. However, also to ensure that every vehicle is able to adequately carry an average size folded wheelchair.

There is an argument potentially for a relaxation of the rule where it relates to MPV's, as these could for example in most cases, carry a wheelchair in a folded but upright position. It is suggested therefore, that some research is done into this and reported back to Members of the Licensing Committee, along with proposals in 6 to 12 months' time.

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 To consider and determine the matters relating to disability and dementia awareness training (A1.13), the matter relating to telephone numbers on door signs (A1.14) and the concerns raised relating to MPV vehicles (A1.16) and then to:

- (i) To agree the new Policy in its current form
- (ii) To amend and agree the new Policy
- (iii) To refuse to endorse the new 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 no perceived equalities implications nor direct Crime and Disorder implications.

A6. Consultation and Customer Focus

A6.1 There was a period of 6 weeks public consultation on this draft Policy. This took place between the 20th August 2019 and 1st October 2019. 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 Draft Hackney Carriage and Private Hire Licensing Policy 2019

Appendix 2 Consultation response

Documents available in members' rooms: None

Background Papers:

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

Department for Transport Guidance