

**Waverley Borough Council**  
**LICENSING AND REGULATORY COMMITTEE**  
**09 NOVEMBER 2020**

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**Title:**

**HACKNEY CARRIAGE AND PRIVATE HIRE POLICY REVIEW**

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**Portfolio Holder:** Cllr Nick Palmer, Portfolio Holder for Operational & Enforcement

**Head of Service:** Richard Homewood  
**Head of Environmental & Regulatory Services**

**Key decision:** No  
**Access:** Public

**1.0 Purpose and Summary:**

- 1.1 This report proposes a number of changes to the Hackney Carriage/Private Hire Licensing Policy to reflect the Department for Transport Statutory Taxi & Private Hire vehicle Standards July 2020 report on a safer system of taxi and private hire vehicle licensing and other proposed changes following review by Officers and to agree a basis for consultation with the Taxi and Private Hire trades and the public.
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**2.0 Introduction**

- 2.1. Waverley's current Hackney Carriage/Private Hire Licensing Policy was initially adopted in July 2010 and the current version has been in effect since 1 March 2018.
- 2.2 In 2017, the Minister for Transport John Hayes MP announced in the Commons that he was to establish a Task and Finish Group (TFG) to examine taxi and private hire licensing, with a view to highlighting the current dilemmas faced by licence holders and recommending possible legislative reform. The report was submitted to Government in July 2018. On 12th February 2019, the Department of Transport issued its response to the Task and Finish Group report and in July 2020 The Department of Transport issued The Statutory Taxi & Private Hire Vehicles Standards.

The government issued these statutory taxi and private hire vehicle standards to licensing authorities, outlining how they should carry out their licensing function.

- 2.3 At the end of 2019 Officers conducted a review of Waverley's Hackney Carriage & Private Hire Policy. There were a number of existing conditions which Officers felt required update/clarification. It was also felt appropriate to incorporate recommendations from the Department of Transport on the report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing, given the outdated legislation and the new challenges facing the taxi industry.
- 2.4 On the 13 January 2020 the Licensing & Regulatory Committee considered the changes and recommendations to the policy and agreed a basis for consultation. Attached at **Annexe 1** is a list of the agreed actions.
- 2.5 Officers subsequently consulted on the policy and were due to bring the comments from the consultation to the Licensing & Regulatory Committee on the 23 March 2020 for consideration. This was overtaken by circumstances due to the Council's reprioritisation of services connected to the Covid-19 outbreak etc., and with members' agreement this meeting was postponed.
- 2.6 Since the postponement, the Government has published the Department of Transport's 'Statutory Taxi & Private Hire Vehicle Standards', a copy of which is attached at **Annexe 2**.
- 2.7 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department of Transport therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**

"Having regard" to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking; the standards must be considered rigorously and with an open mind.

Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and

the policies and delivery plans that stem from these. The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

- 2.8 Attached at **Annexe 3** is a table of the Government's Standards, Waverley's current policy situation and officers' recommendations.
- 2.9 Following the publication of the report and the impact it has on the Hackney Carriage/Private Hire Licensing Policy, officers have conducted a further review of a number of existing conditions to incorporate the recommendations from the Department of Transport on Taxi and Private Hire Vehicle Standards. A copy of the current Hackney Carriage Policy, with previously proposed amendments marked in colour, and further proposed amendments in block yellow is attached at **Annexe 4**.
- 2.7 Once considered by the Licensing and Regulatory Committee, any proposed updates to the policy, can be sent out for consultation

### **3.0 Conclusion**

- 3.1 The Committee is asked to consider the report and the recommended changes to the Hackney Carriage/ Private Hire Licensing Policy and agree those recommendations as a basis for public consultation. The Policy is ultimately agreed by the Committee as part of the Policy Framework, and the outcome of the feedback from the consultation will be reviewed before final recommendations are made to the Licensing and Regulatory Committee

### **4.0 Recommendation**

- 4.1. It is recommended that the Licensing and Regulatory Committee
- . considers the draft Hackney Carriage and Private Hire Licensing Policy at Annexe 4 and agrees it, with or without amendments, as a basis for consultation; and;
- notes The Department Of Transport 'Statutory Taxi & Private Hire Vehicle Standards' report
  - notes the agreed actions from Waverley's Licensing & Regulatory Committee of 13 January 2020
  - approves officer recommendations on the Statutory Taxi & Private Hire Vehicle Standards' report outlined at Annexe 3.
  - notes that a number of minor administrative changes and typographical corrections have been made

- delegates authority for minor administrative changes, typographical corrections and grammatical changes for easier reading to be approved by the Head of Environmental & Regulatory Services.

## 5.0 **Reason for the recommendation(s)**

- 5.1 A review of the existing Policy is necessary following receipt of the Department Of Transport 'Statutory Taxi & Private Hire Vehicle Standards' report and on the basis of a number of Officer observations based on recent experience in administering and enforcing the policy.

## 6.0. **Relationship to the Corporate Strategy and Service Plan(s)**

- 6.1 Relevant matters within the Corporate strategy to this report are :-  
 a thriving local economy, supporting business and employment;  
 sense of responsibility for environment and protecting the planet;  
 encouraging small businesses;  
 encouraging carbon reduction and promotion of transport; and  
 taking action on air quality issues.

Aspects of the report and proposals may be also be relevant to key decisions on the Council's forward programme, specifically in respect of Air Quality and Electric Vehicle Charge strategy.

## 7.0 **Implications of decision(s)**

### 7.1 **Resource (Finance, procurement, staffing, IT)**

Provision is made in the Council's budget for the licensing service which is run on a costs recovery basis. The immediate resource implications would be officer time, the cost of the consultation on the policy, the possible advertising of any changes and following adoption. Any changes to policies and practices may result in additional costs to the licensing regime. There is the potential for legal challenge to any amendments to policy and if so, there may be legal costs incurred to defend any such challenge. Any additional costs associated with the administration and enforcement of the licensing regime can be recovered via taxi licensing fees.

### 7.2 **Risk management**

The Taxi and Private Hire Licensing Policy is in place to ensure public safety when using these services and to ensure the appropriate balances and mitigations are in place to minimise risk to public safety whilst enabling businesses to trade effectively, efficiently and legally.

### 7.3 **Legal**

Waverley is responsible for licensing Hackney Carriage, Private hire and dual drivers, proprietors and operators within the area. primarily through the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 as well as other legislation.

The Statutory Taxi and Private hire vehicle Standards are not legislation but at para 1.3 of the Standards “The Department (for Transport) expects these recommendations to be implemented unless there is a compelling local reason not to” and which are effective and operative immediately (section 177). The document makes clear that the standards have been developed as a result of past failings of licensing regimes and makes reference to both Jay and Casey reports listing several local authorities where taxi licensing policy and practice have failed to offer the necessary protection to children.

The duty is a ‘have regard’ duty. This means that the Council must take the standards into account and must give clear reasons for departing from them.

The Hackney Carriage and Private Hire licensing policy applies to all drivers, vehicles and operators and the policy is intended to ensure the trade and the public have access to a document that fully explains the licensing requirements to all in a clear and transparent manner.

### 7.4 **Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the Council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010. No equality impact assessment has been conducted in connection with the preparation of this report but an equality impact assessment would be conducted as part of the consultation process, once the basis for any consultation is known.

### 7.5 **Climate emergency declaration**

The recommended conditions in relation to the age of vehicles and the measures to encourage a change to Ultra Low Emission Vehicles will help contribute toward the Council’s target for net zero carbon emissions by 2030

### 8.0 **Consultation and engagement**

8.1 The recommended changes of the Taxi and Private Hire Licensing Policy set out above will be subject to consultation with the Taxi and Private Hire trade and the public before being finalised.

### 9.0 **Other options considered**

9.1 Other options considered are commented on throughout the report.

## 10.0 **Governance journey**

10.1 Trade and Public Consultation with final recommendations to Licensing and Regulatory Committee.

### **Annexes:**

Annexe 1 – Agreed actions of the Licensing & Regulatory Committee 13/01/2020

Annexe 2 – A copy of The Statutory Taxi & Private Hire Vehicles Standards

Annexe 3 – A a table of the Governments Standards, Waverley's current policy situation and officers recommendations

Annexe 4 – A copy of the current Hackney Carriage Policy, with proposed amendments

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### Background Papers

Briefing note on the Statutory Taxi and Private Hire Vehicle Standards and implications for licensing regulation – by Phillip Kolvin QC (Local Government Lawyer article)

<https://www.localgovernmentlawyer.co.uk/licensing/316-licensing-features/44447-statutory-taxi-and-private-hire-vehicle-standards>

Background papers are those that are referred to in the report, but are not published and accessible to the public.

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Agreed and signed off by:

Legal Services: date

Head of Finance: date

Strategic Director: date

Portfolio Holder: date

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