

WAVERLEY BOROUGH COUNCIL

LICENSING AND REGULATORY COMMITTEE – 28 JANUARY 2016

Title:

**HACKNEY CARRIAGE AND PRIVATE HIRE POLICY REVIEW CHANGES TO
LEGISLATION**

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to enable the Sub-Committee to consider comments following the consultation on the review of a number of conditions in Taxi and Private Hire Licensing policy with a view to amending them if appropriate. The current policy was originally adopted by the Council in July 2010 and was last revised on 16 July 2013, however officers are now seeking members' agreement to further review and revise a number of conditions which they feel require updating and/or clarifying.

How this report relates to the Council's Corporate Priorities:

Taxis play an important part in the overall public transport network in the Borough, and contribute to policies on the environment and improving lives.

Equality and Diversity Implications:

The Equality Act 2010 requires the Council to consider the impact of policies on those with protected characteristics.

Resource/Value for Money implications:

The resource implications would be the possible advertising of any fee changes and following adoption, the printing (internal) and posting of approximately 300 updated policy booklets to licensees.

Legal implications:

Policies or guidelines should not be established by the Body (in this case, the Licensing and regulatory Committee) which regulates or determines a function. The Waverley Hackney Carriage and Private Hire Licensing policy should therefore be determined by Council. Accordingly, this Committee is asked to address the Policy issues around such licensing and make recommendations to Council to update Waverley's policy regarding taxi and private hire licensing.

The Council's Hackney Carriage and Private Hire Licensing Policy guides those responsible for licensing and enforcement and applicants/licensees. Policies, and the application of them, can be subject to legal challenge. Application of a policy as a rule and failure to consider individual cases on their own merit could lead to successful legal challenge.

Introduction:

1. On 20 July 2010 Waverley's Hackney Carriage and Private Hire Licensing Policy was adopted by the Council with the latest amendments adopted in July 2013. Since that time a number of conditions have come to the attention of officers, who feel that these conditions need to be reviewed, and to add the changes to legislation following the Deregulation Bill 2015.
2. Having been initially considered by the Licensing and Regulatory Committee the policy, with amendments, was sent out for a six week consultation period.

Hackney Carriage & Private Hire Policy – Public Consultation

3. The consultation has been by a written process to all Hackney Carriage and Private Hire licensees, a public notice at all the taxi ranks within Waverley, a notice displayed on Waverley's website and at its offices, and the proposals were included on the agenda for the Taxi Liaison Meeting on 21 September 2015.
4. The Consultation timetable was as follows:
 - Initial report to the Licensing & Regulatory Committee – 24 September 2015
 - Draft policy sent to all HC/PH licensees – 29 October 2015
 - Notice placed at all taxi ranks – 30 October 2015
 - Consultation information placed on website – 30 October 2015
 - Inspection copies at Council Offices – 30 October 2015
 - End of Consultation period - 11 December 2015 (6 weeks)
 - Licensing and Regulatory Committee – 28 January 2016
 - Council – 16 February 2016
5. There have been seven written responses to the consultation and a brief summary of the contents is set out below. Full details are attached at Annexe 1.

	Comment Made	Officer Comment
1	Vehicle Age Policy – A petition with 47 signatures was received requesting the removal of the vehicle age policy	This is one of the proposed amendments to the policy
2	Child Sexual Exploitation (CSE) – Recommendation from the Community Safety Officer to make it compulsory for all taxi drivers to receive training on spotting and reporting signs of CSE	Approximately 46 of our licensees attended this training at the Council offices in August 2015.
3	Child Sexual Exploitation (CSE) – Support letter from Surrey Police for the above CSE training to become compulsory	

4	<p>Various Points: Agree that the age policy should change but concerned that will it make it easier for new drivers, especially when Farnham already has too many without enough spaces. Suggests the following might help:</p> <ul style="list-style-type: none"> A. New drivers should have to buy a new car. B. the knowledge test to be much harder and maybe done electronically C. Restriction on the number of part-time workers D. New drivers should live within a certain radius of the borough or have some sort of family link to the borough. 	
5	<p>Medical Age – A misunderstanding on the medical age change. It was thought that it was proposed to require an annual medical for all drivers at the age of 50.</p>	<p>Officers have clarified the misunderstanding with the author of the comment.</p>
6	<p>Documentation points of style.</p> <p>A Councillor has commented that:</p> <ul style="list-style-type: none"> A. parts of the policy are written in the third person and others in the second person, for consistency purposes make it all third party. B. dates regarding regulations that are coming into effect that have already passed should be removed; and C. there is quite a lot of variability in the use of words that give instruction – suggests making it clearer by using certain words consistently. 	<p>Officers will review the text of the policy.</p>
7	<p>Age Policy – Good case for no age policy for purpose-built vehicles like the black cab.</p>	

Further Officer Proposed Changes to Hackney Carriage/Private Hire Licensing Policy

6. A copy of the current Hackney Carriage Policy, with proposed amendments marked in colour, is attached at Annexe 2.
7. During the period of the consultation, officers have identified some further proposed amendments that they would like to incorporate into the policy. The additional amendments (which have not been consulted on) are proposed to add further clarity to parts of the policy which have caused some interpretation arguments in the past.

8. The further proposed changes are;
- A. Page 28 Annexe 1 point 7a to 7d, Page 32 Annexe 2 point 6, Page 42 Annexe 5 point 3d

To change the existing wording to:

The licensee shall report to the Council in writing/email as soon as possible, and in any event within 7 days, details of any:

- (a) convictions or formal police cautions
- (b) motoring offences or endorsements of any type
- (c) charge/summons/postal requisition against him in respect of any offence
- (d) arrest or interview under caution for any alleged offence
- (e) any communication notifying him of any alleged offence

and the licensee is advised to contact the Licensing Administrator (01483 523219) if in any doubt of his/her duties under this condition.

- B. Page 50 point 7:

To amend the current text by **inserting the text shown in bold:**

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public, for example, by demanding more than the legal fare or giving incorrect change.

Overseas visitors can be confused by the change in currency and become "fairgame" for an unscrupulous driver. Similarly, any customer can be defrauded by a driver taking them by any other than the shortest route or by them retaining any lost property left in their vehicle. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. **The Council also expects licensees to be open and honest in their dealings with the Council.** For these reasons a serious view is taken of any convictions involving dishonesty.

An application/licence should be refused/revoked/suspended where the applicant /licensee has a conviction/caution for one of the following offences and (in the case of an application) where a conviction/caution is less than 3 years prior to the date of application:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery

- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Making off without payment

Human Rights Implications

9. The Human Rights Act 1998 incorporated into English law the protection of human rights enshrined in the European Convention on Human Rights (ECHR). The Council must have regard to the human rights of individuals affected by its decisions. In determining applications for licences and in matters of enforcement, the Council will have regard to Article 1 of the First Protocol of the ECHR (the right to the peaceful enjoyment of one's possessions) (where applicable), Article 6 (the right to a fair hearing) and Article 8 (the right to respect for a person's private and family life, his home and his correspondence)..

Conclusion

10. The Committee is asked to consider the comments made to the Hackney Carriage and Private Hire Licensing Policy and make its recommendations for amending the Policy to the Council as part of the Policy Framework.

Recommendation

It is recommended that the Licensing and Regulatory Committee considers the representations in Annexe 1 to this report and makes any adjustments to the policy so that the final revised version of the Hackney Carriage and Private Hire Licensing Policy for Waverley can be recommended to and approved by the Council and be formally adopted in order for the new Policy to be in place by 1 March 2016.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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