

NONEXEMPT

EAST HAMPSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE

29 May 2015

TAXI AND PRIVATE HIRE LICENSING POLICY

Report of the Licensing Team Leader

REPORTNO

FORDECISION

Key Decision: Yes/No

1.0 Purpose of Report

- 1.1 To consider the changes for Taxi and Private Hire Licensing Policy, Licensing Enforcement Policy, Penalty Points Scheme, and Licence Conditions attached to Combined Hackney Carriage/Private Hire Driver, Hackney Carriage Vehicle, Private Hire Vehicle and Private Hire Operator Licences.

2.0 Recommendation

- 2.1 That the draft Policies and Conditions enclosed in the Appendices to this Report are approved for public consultation.

3.0 Summary

- 3.1 Policies are an integral part of a Local Authorities decision making process; informing and guiding decision makers and providing a valuable aid to consistent decision making. The Purpose of this Policy is to guide Officers of the Council, Members of the Council's Licensing Committee, The licensed trade, new applicants to the trade and the Courts hearing appeals of decisions as to how East Hampshire District Council intends to carry out the licensing of Hackney Carriage and Private Hire drivers, vehicles and operators within its district.
- 3.2 The Council's Policy for Taxi and Private Hire Licensing was last reviewed in 2010. It is intended that Policy should be reviewed every three years to ensure the Policy reflects current best practice to protect public safety and ensure the requirements of the District for a taxi and private hire trade are met.
- 3.3 In considering changes, feedback received from the trade and others since the last review of Policy has been taken into account. Additionally Policy has been updated to reflect the Council's Corporate Strategy.

3.4 Similarly, developments in case law, guidance, the Casey Report into the failings of the Licensing Section of Rotherham District Council to prevent Child Sexual Exploitation, the Deregulation Act and the legislative review by the Law Commission have also been considered when updating the Policy.

3.5 Aside from some minor change to formatting and wording of the Policy, a summary of difference between the proposed and previous Policy are shown in the table below. For each change to the previous Policy, a reason for the change is detailed.

3.6 Summary of Changes to Taxi and Private Hire Licensing Policy:

Section	Change	Reason
1. Introduction	Clarification of scope of Policy	To show the Policy is to provide guidance to all parties listed in section 1.6.
3. Fees	Introduction of commitment to review fees annually.	Considered best practice to review fees annually. EHDC must have transparent, robust fee setting process in light of Hemmings vs Westminster case and challenges to other Authorities fees.
4. Table of Fares	Introduction of commitment to review table of fares annually.	Considered best practice to review table of fares annually. Current ahdoc review could result in continual review of table at request of trade with considerable resource implications for EHDC.
6. Illegally Plying for Hire	Introduction of a clear Policy on illegally plying for hire.	Considered good practice to have a policy on illegally plying for hire to protect licensed members of the trade and the public from unlicensed/uninsured vehicles.
7.	Introduction of a clear policy on decisions and the appeals process.	To provide guidelines to officers making decisions and applicants at how a decision will be reached.
9. Crime and Disorder	Clear statement that information collected may be shared with other regulators for the prevention and detection of crime.	For the prevention and detection of crime to protect the public.
10. Consultation	Clear statement increasing the diversity of different groups to be consulted regarding Policy.	Considered best practice to consult with a wide group.
12. Requirements for Drivers	Bring Driver Requirements into main policy, rather than an appendix.	For ease of reading.
12.1 Types of licence offered	Introduction of two types of Driver Licences: Combined Hackney Carriage/Private Hire Drivers	Introduction of new badge with same application but different qualification requirement which still protects the public a result of business demand.

	Licence (currently offered) and the Restricted Private Hire Driver Licence (new)	
12.2 Licence duration	Increase in maximum duration of driver licence from 1 to 3 years.	As a result of the Deregulation Act 2015 increasing the standard duration of driver's licences.
12.5 New Applicants	Introduction of a minimum age requirement of 21 years.	To ensure prospective applicants have sufficient personal experience to deal with the challenges associated with being a licensed driver. To protect the public.
	Introduction of a minimum period of 3 years which applicants have held a full DVLA drivers licence.	To ensure prospective applicants have sufficient driving experience. To protect the public.
	Clarification that applicants must have sufficient literacy, numeracy and language skills.	To protect the public.
	Introduction of a knowledge test for new applicants.	Local Benchmarking – All other Hampshire and neighbouring Authorities have this requirement. To ensure all new applicants have a basic understanding of: English language, literacy and numeracy. Highway code. Geographical knowledge of the District. Responsibilities of a licensed driver towards customers. Allowing EHDC to refuse applicants who do not meet this basic requirement to protect the public.
	Introduction of a Policy on dealing with applicants who are unable to obtain a Good Conduct Certificate.	Some Countries do not keep records enabling applicants to obtain a Good Conduct Certificate. Clear set of guidelines to deal with these cases to ensure applicant is fit and proper.
12.6 Qualifications for Drivers	Clarification of the public safety rationale behind a driver training requirement.	To give clarity to those reading the Policy.
	Introduction of clear Policy on licence holders who do not complete the necessary qualification in the required timescale.	To ensure consistency.
	Amend wording of Training requirement for new drivers of the Combined Driver Licence so that they must	To reflect current training arrangements offered by providers.

	complete the BTEC Qualification "Introduction to the Role of the Professional Taxi and Private Hire Driver".	
12.7 Guidelines Relating to the Relevance of Convictions	Bring Guidelines into main policy, rather than an appendix.	For ease of reading.
	Explanation of the reasoning behind considering criminal convictions.	To give clarity to those reading the Policy.
	Expectation of applicants to register with the DBS update Service.	For best practice.
	Guidelines on convictions based upon latest Guidance from Local Government Association (April 2015).	To ensure best practice.
	Clarification that applicants with offences which involve the loss of life, or serious violent offences should be refused.	For the protection of the public.
	Clarification that applicants with sexual offences should be refused.	For the protection of the public and to reflect the findings of the Casey report.
	Extension of the minimum period applicants should be free of dishonesty offences from 3 to 5 years.	For the protection of the public.
	Clarification that any serious drug related offence is likely to merit refusal.	For the protection of the public.
	Clarification that an applicant with more than one conviction for driving under the influence of alcohol/drugs or driving using a mobile phone should be refused.	For the protection of the public.
	Introduction of guidelines for driving offences involving the loss of life.	For the protection of the public.
	Introduction of guidelines for other motoring offences, such as driving whilst disqualified or without insurance.	Clear Policy that EHDC to take these into account when considering if an applicant is fit and proper. For the protection of the public.
	Introduction of guidelines for licensing offences.	Clear Policy that EHDC to take these into account when considering if an applicant is fit and proper. For the protection of the public.
	Introduction of guidelines for outstanding charges or	Clear Policy that EHDC to take these into account when considering if an

	summonses.	applicant is fit and proper. For the protection of the public.
	Introduction of guidelines for non-conviction information and cautions.	Clear Policy that EHDC to take these into account when considering if an applicant is fit and proper. For the protection of the public.
12.8 Renewal Applications	Introduction of requirement for a driver to renew their photograph every 6 years.	No current requirement. So that drivers are identifiable.
	Introduction of a requirement for a driver to renew their DVLA consent as required.	Due to the abolition of the paper counterpart in 2015.
12.9 Re-application after refusal	Introduction of guidelines on re-applications after refusal.	To ensure consistency.
12.10 Driver Conduct	Clarification of the different mechanisms the Licensing Authority has to deal with drivers not conducting themselves in the manner expected.	To ensure consistency.
	Clarification that smoking of any type is permitted in a licensed vehicle.	To ensure consistency.
12.11 Dress Code	Bring dress code into main Policy.	For ease of reading.
12.12 Notification of any changes in circumstance	Inclusion of requirement to notify of any changes in main Policy.	To ensure consistency.
13. Requirements for Vehicles	Bring Vehicle Requirements into main policy, rather than an appendix.	For ease of reading.
13.1 Applications	Clarification that MOT/insurance certificate provided should expire no less than two weeks after commencement of the licence.	To ensure that vehicle has valid MOT/insurance at time of issue of licence. To ensure consistency.
13.2 Vehicle Specifications	Removal of detailed vehicle specification Policy.	Difficult to understand and enforce. To ensure consistency.
	Accept applications for family size cars, MPVs, 4x4s and minibuses up to 8 seats.	Policy easy to understand and enforce.
	List of general criteria to determine whether vehicle is suitable and how many passengers it would be licensed for.	General requirements mean Policy does not have to be updated regularly to keep up with developments in vehicle technology. General requirements are still sufficient to provide a safe, comfortable vehicle.

		Best practice to encourage a range of vehicles to be licensed. In all cases vehicle inspected by Licensing Officer to ensure suitability.
13.5 Vehicle Examination	Introduction of requirement for PHV less than 3 years old (which doesn't require an MOT) to have a twice yearly mechanical test.	For the protection of the public.
13.6 CCTV	Clear statement that use of CCTV is encouraged in licensed vehicles.	For the prevention and detection of crime and protection of trade and public.
13.8 Spare Wheels	Removal of requirement to carry a full size spare wheel.	Most new vehicles no longer come with a full size spare wheel.
	Other suitable method of conveying vehicle to a place or repair still required.	For the protection of the public.
13.11 Safety Equipment	Updating of requirement for first aid kit to comply with BS 8599-2.	Recognised British Standard for passenger carrying vehicles.
13.12 Taximeters	Updating of requirement for Taximeters to comply with relevant legislation.	Specific requirement for the protection of the public.
13.13 Special Event etc Vehicles	Bring Requirements for Special Event etc into main policy, rather than an appendix.	For ease of reading.
13.14 Exemption Policy for Private Hire Vehicles	Bring Requirements PHV Plate Exemption into main policy, rather than an appendix.	For ease of reading.
	Increase in minimum of original list price of vehicle from £28,000 to £30,000	To ensure only prestige vehicles are granted an exemption.
14. Requirements for Operators	Bring Requirements PH Operators into main policy, rather than an appendix.	For ease of reading.
14.1 Private Hire Operators Licence duration	Increase in maximum duration of Operator licence from 1 to 5 years.	As a result of the Deregulation Act 2015 increasing the standard duration of operator's licences.
14.2	Inclusion of requirement for Operator's base to be within the Licensing Authorities District.	To ensure control of Operator's Licences.
14.4	Removal of reference requirement.	Other safeguards are sufficient to protect the public.

3.7 Summary of Changes to Driver's Conditions

Section	Change	Reason
3(f)	Remove detail of dress code from conditions.	Included in main Policy.
3(i)	Inclusion of new condition relating to smoking which includes prohibition of smoking electronic cigarettes and vaporising devices.	Not included in previous conditions. To remove any ambiguity.
3(j)	Inclusion of condition not to convey number of passengers greater than licence.	Not included in previous conditions.
3(o)	Inclusion of condition to notify the Council of change of address.	Not included in previous conditions.
	Removal of requirement to accept travel tokens.	Voluntary Scheme and tokens difficult to exchange.

3.8 Summary of Changes to Private Hire Vehicle Conditions

Section	Change	Reason
2.	Removal of detailed spare wheel requirements.	Included in main Policy.
3(b)	Inclusion of condition to service/maintain vehicle in line with manufacturers instructions.	Not included in previous conditions.
3(c)	Inclusion of condition to present vehicle for mechanical examination in line with Council requirements.	Not included in previous conditions.
3(d)	Updating of conditions relating to fire extinguishers.	To include relevant British Standard.
3(e)	Updating of conditions relating to first aid kits.	To include relevant British Standard.
4.	Removal of condition to return plate if vehicle not used for 14 days.	Burdensome on the trade.
4(d)	Inclusion of condition to notify the Council of change of owner of vehicle.	Not included in previous conditions.
4(e)	Inclusion of condition that a vehicle should not be licensed with another local authority.	Not included in previous conditions.
5.	New conditions relating to conduct of Licence proprietors.	Not included in previous conditions.

3.9 Summary of Changes to Hackney Carriage Vehicle Conditions

Section	Change	Reason
2.	Removal of detailed spare wheel requirements.	Included in main Policy.
3(b)	Inclusion of condition to service/maintain vehicle in line with manufacturers instructions.	Not included in previous conditions.
3(c)	Inclusion of condition to present vehicle for mechanical examination in line with Council requirements.	Not included in previous conditions.
3(d)	Updating of conditions relating to fire extinguishers.	To include relevant British Standard.
3(e)	Updating of conditions relating to first aid kits.	To include relevant British Standard.
4.	Removal of condition to return plate if vehicle not used for 14 days.	Burdensome on the trade.
4(d)	Inclusion of condition to notify the Council of change of owner of vehicle.	Not included in previous conditions.
4(e)	Inclusion of condition that a vehicle should not be licensed with another local authority.	Not included in previous conditions.
5.	New conditions relating to conduct of Licence proprietors.	Not included in previous conditions.
5(e)	Clarification that responsibility to fulfil bookings which have been sub-contracted rests with the proprietor originally receiving the booking.	Not included in previous conditions. To protect public safety.
5(f)	Inclusion of a requirement for Operators to notify customers details of proprietor fulfilling the booking if their booking has been subcontracted.	Not included in previous conditions. To protect public safety.

3.10 Summary of Changes to Private Hire Operator Conditions

Section	Change	Reason
2(a)	Inclusion of condition relating to Operator name to avoid duplication of Operator names and confusion for the trade and public.	Not included in previous conditions
2(b)	Inclusion of a condition for Operator's base to be within	To ensure control of Operator's Licences.

	the Licensing Authorities District.	
2(d)	Inclusion of a condition to notify Council of change of business name.	Not included in previous conditions.
2(e)	Inclusion of a condition to notify Council of change of business address.	Not included in previous conditions.
3(a)	Inclusion of a condition not to use unlicensed vehicle and/or drivers.	Not included in previous conditions.
3(g)	Inclusion of a condition not to allow greater number of vehicles to operate from base than planning permission allows.	Not included in previous conditions.
4(a)	Inclusion of a condition requiring operators to produce booking records at the request of an authorised officer or Police officer.	Not included in previous conditions.
4(b)	Inclusion of a condition requiring operators to record the details of the person taking the booking.	Not included in previous conditions. For the avoidance of any doubt when auditing records.
4(c)	Inclusion of a condition requiring operators to record driver's shift patterns.	Not included in previous conditions. For the avoidance of any doubt when auditing records.
4(d)	Extension to the period from 2 to 5 years which operator are required to keep records.	In line with maximum licence duration.
5(a)	Clarification that responsibility to fulfil bookings which have been sub-contracted rests with the operator originally receiving the booking.	Not included in previous conditions. To protect public safety.
5(c)	Inclusion of a requirement for Operators to notify customers details of operator fulfilling the booking if their booking has been subcontracted.	Not included in previous conditions. To protect public safety.
7(d)	Detailed conditions relating to smoking signs removed and replaced with statutory requirements.	For ease of understanding.

3.11 Summary of Changes to Penalty Points Scheme

Section	Change	Reason
Introduction	Extension of period which Penalty Points remain on a licence holders record from 1	To promote and encourage long term compliance amongst the licensed trade.

	to 3 years.	
Introduction	Removal of the ability to contest the award of individual Penalty Points to the Licensing Committee.	Penalty Points are a record of licence holders conduct only. Licence holder will have the opportunity to appear before the Licensing Committee to explain their record should they accumulate the threshold of points within the set period.
Introduction	Removal of statement that licence holders will not be prosecuted for points awarded for criminal matters.	To protect the enforcement options available.
Offence 1	Increase in maximum number of points available from 6 to 12.	To protect the public.
Offence 3	Increase in minimum number of points available from 1 to 6.	To protect the public.
Offence 4	Increase in maximum number of points available from 6 to 12.	To protect the public.
Offence 5	Increase in maximum number of points available from 9 to 12.	To protect the public.
Offence 7	New Offence of allowing unlicensed driver to drive a vehicle.	To protect the public.
Offence 8	Increase in maximum number of points available from 4 to 6.	To protect the public.
Offence 19	New Offence of charging/obtaining more than the legal fare (Hackney Carriage)	In line with legislation. To protect the public.
Offence 20	New Offence of charging/obtaining more than the agreed fare (Private Hire).	To protect the public.
Offence 24	Increase in maximum number of points available from 3 to 6.	To protect the public.
Offence 25	New Offence of displaying advertisement without the consent of the Council.	To protect the public.
Offence 30	New Offence of interfering with taximeter.	To protect the public.
Offence 34	New Offence of evidence of alcohol/drugs in vehicle.	To protect the public.
Offence 41	Increase in maximum number of points available from 3 to 12.	To protect the public.
Offence 42	Increase in maximum number	To protect the public.

	of points available from 3 to 12.	
Offence 43	Increase in maximum number of points available from 3 to 6.	To protect the public.
Offence 47	Increase in maximum number of points available from 4 to 12.	To protect the public.
Offence 48	Increase in minimum number of points available from 1 to 4.	To protect the public.
Offence 49	Increase in maximum number of points available from 6 to 12. Reduction of time in which offences must be reported from 21 to 7 days.	To protect the public.
Offence 57	Increase in maximum number of points available from 3 to 12.	To protect the public.
Offence 59	Increase in maximum number of points available from 3 to 6.	To protect the public.
Offence 60	New Offence of leaving Licensed Vehicle unattended.	To protect the public.
Offence 61	Inclusion of electronic or vaporising devices in the term "smoking". Increase in maximum number of points available from 3 to 6.	To ensure consistency and for the avoidance of doubt.

3.12 Full public consultation of the proposals will follow, with any comments received referred back to Licensing Committee before approval.

4.0 Implications

4.1 Resources:

There are no resource implications in this report.

4.2 Legal

The powers for licensing of Hackney Carriages, Private Hire Vehicles, Private Hire Operators and Drivers dates back to the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.

The legislation has been subject to a recent review by the Law Commission, however the recommendations of this report are yet to be enshrined into law.

It is therefore important that a Local Authorities Policy for regulating the Hackney Carriage and Private Hire trade is up to date and reflects current best practice to protect the public and provide a framework to assist decision makers.

4.3 Strategy:

Regularly reviewing a Policy which is so integral to governing a business sector is necessary to meet our strategic objective of public service excellence.

Listening to the trade making changes to Policy which will suit their business needs but still protect the public is key to the Council's aim of becoming a business friendly Authority and objective of creativity and innovation.

4.4 Risks:

Not updating the Policy means that current best practice is not reflected potentially putting the public at risk and potentially creating disharmony in the trade through inconsistent decisions.

4.5 Communications:

The public and all members of the licensed trade will be informed of the proposed Policy changes. Should any comments be received during a period of consultation, these will be referred back to the Licensing Committee for consideration before finalising any changes.

4.6 For the Community:

The community will be provided with a safe form of public transport. It is also right for members of the Hackney Carriage and Private Hire trades to expect a clear and up to date Licensing Policy to govern their activities.

An Equality and Diversity Impact Assessment has been carried out and can be seen in Appendix IX.

5.0 Consultation

Public Consultation with the trade, public, transport user groups and internal/external partners to follow agreement of the proposals in this report.

6.0 Appendices:

Appendix I – Draft Taxi Policy, Enforcement Policy and Licence Conditions
Appendix II – Draft Combined Hackney Carriage/Private Hire Driver Conditions
Appendix III – Draft Restricted Private Hire Driver Licence Conditions
Appendix IV – Draft Hackney Carriage Conditions
Appendix V – Draft Private Hire Vehicle Conditions
Appendix VI – Draft Private Hire Operator Conditions
Appendix VII – Draft Penalty Points Scheme
Appendix VIII – Draft Enforcement Policy
Appendix IX – Equality and Diversity Impact Assessment

Background Papers:

None

Agreed and signed off by:

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