

DECISION-MAKER:	LICENSING COMMITTEE
SUBJECT:	TAXI LICENSING POLICY STATEMENT 2021
DATE OF DECISION:	8 SEPTEMBER 2021
REPORT OF:	Executive Director Communities, Culture and Homes. Mary D’Arcy

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

N/A

BRIEF SUMMARY

Southampton City Council’s policies and conditions for Hackney Carriages and Private Hire trades have been reviewed and updated to address additional areas in the Department for Transport Statutory Taxi and Private Hire Standards document and to address some areas of concern raised by the taxi trades in Southampton.

RECOMMENDATIONS:

	(i)	To consider the contents of this report, appendices and any comments or representations made on the policy attached as appendix 1.
	(ii)	Defer the decision on the option of door signage for private hire vehicles whilst officers gather more information on the implications this is likely to have.
	(iii)	To adopt the remainder of the Statement of Taxi Licensing Policy and appendices, attached at Appendix 1
	(iv)	To delay the requirement for applicants for either hackney carriage driver or private hire driver licences to have passed an approved English and Maths test until an approved provider has been procured.
	(v)	To delegate to the licensing manager, in consultation with the chair of the licensing committee, the authority to approve the standard of the tests in recommendation (iv) and the date the policy will be applied.

REASONS FOR REPORT RECOMMENDATIONS

1.	In July 2020 the Department for Transport published their Statutory Taxi and Private Hire Standards document, attached as appendix 2, which requires the
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	licensing authority to publish a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing.
2.	This document sets recommendations to be implemented unless there is a compelling local reason not to. It should also be noted the primary purpose of a licensing regime is to protect the public.
3.	Southampton City Council currently has numerous documents covering the policy and conditions set for the taxi trades licensed by Southampton City Council. There is no overarching taxi policy document. The new policy provides an overarching policy with relevant appendices setting policy and conditions for the various strands of taxi licensing.
4.	The option to change the door sign requirements for private hire vehicles has the potential to have a profound effect on the taxi trades in the city and more time is required to gather information to assist members to reach a decision.
5.	Officers will need to procure a provider for English and Maths assessments so need to be flexible on the date of implementation. Officers will liaise with the taxi trades and agree with the chair the standards of these assessments.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
6.	Not considering changes or a review of current policy is contrary to the Department for Transport Statutory guidance and will leave the authority at risk of challenge and reputational damage.
DETAIL (Including consultation carried out)	
7.	The current policy of the council meets the Department for Transport statutory guidance in most areas but was lacking in some areas, most notably criminal records checks for vehicle proprietors and operators.
8.	The proposed policy reflects the standards in the Department for Transport statutory guidance. We also undertook a review of the current policy and conditions to include issues raised at taxi trade group meetings.
9.	<p>The proposed Hackney Carriage and Private Hire Policy Statement is an overarching policy statement with appendices detailing the policy and conditions for the five strands of taxi licensing</p> <ul style="list-style-type: none"> • Hackney Carriages • Hackney Carriage Drivers • Private hire vehicles • Private hire drivers • Private hire operators. <p>It should be noted it is not lawful to impose conditions on hackney carriage drivers. To address this imbalance the policy includes a driver code of conduct.</p> <p>There are other appendices covering: -</p> <ul style="list-style-type: none"> • Taxi trade consultation group code of conduct • Suitability guidance for determining hackney carriage and private hire licences • Medical standards for drivers • Medical exemptions under the Equality Act 2010

10.	A draft policy was presented to the licensing committee in February 2021 who approved it to go out to consultation. The consultation started on 10th March 2021 and was originally intended to be for a period of 12 weeks ending in early June. Due to unforeseen delays with posting out letters advising of the consultation the period of consultation was extended until 5th July 2021 to ensure everyone had ample time to respond.
11.	A total of 323 responses have been received throughout the consultation period. A summary of the responses is attached at appendix 3
12.	Officers responses to the consultation are detailed in appendix 4.
13.	A list of the proposed changes to the consulted upon draft policy and reasons are attached at appendix 5.
14.	The driver policy and conditions reflect changes to legislation, administration process changes and the new guidance. The most significant change to the current policy is a requirement to be subject to a 6 monthly enhanced DBS check, currently it is every three years. This change is in line with the recommendations in the Department for Transport document.
15.	In the consultation 68% disagreed with the DBS checks, a lot expressed concern at the cost and officer time taken completing the checks. By requiring applicants to use the update service and using an outside provider with an automated process the costs are kept to a minimum and officer time is saved. To maintain the service through the pandemic officers obtained the services of a private provider to process the DBS checks on line at a reduced rate of £49.60p. This was instead of council officers completing forms in the office. In the new policy once a certificate is obtained an applicant will go onto the update service which costs £13 a year and is charged to the applicant. As long as the applicant maintains this service there will be no need to obtain a new certificate, just continue to subscribe at £13 a year. To facilitate the checks the company will charge the authority £15 a year per applicant. This will be recovered through the fees and is best value as officers input is significantly reduced. Applicants will receive, ample timely reminders of the need to maintain the service and the checks are returned in short time so reduces the risk of applicants unable to work whilst awaiting the result of a check. The purpose of the check is to ensure public safety is maintained and that the applicants remain safe and suitable. We have examples of convictions occurring shortly after the grant of a licence only being disclosed at the renewal stage nearly three years later.
16.	<p>There are significant additions to the vehicle conditions.</p> <ul style="list-style-type: none"> • A requirement for proprietors to undertake DBS checks • Demonstrate they are a safe and suitable person to hold such a licence • A requirement to produce documents when asked • Requirement to notify licensing authority of any conviction • No smoking in the vehicle. <p>These bring the policy in line with the Department for Transport Standards.</p>
17.	The draft policy consulted upon included 2 options for private hire vehicle conditions relating to door signage. For a number of years it has been a condition for private hire vehicles licensed by Southampton City Council to display approved door stickers that included either the name of the proprietor or operator and either a phone number or domain name of the operator the

	vehicle is operated by. Drivers felt this restricted them to working for only one operator at a time and they wanted more freedom to work for more than one operator. Any change is likely to have a significant impact on how the taxi trades operate in the city and as such further research and work is required to allow for a fully informed decision to be made. The recommendation is therefore to maintain the status quo whilst this work is carried out.
18.	<p>There are additional conditions for the operator licences as well</p> <ul style="list-style-type: none"> • Provide DBS certificate • Maintain a register of staff working with sensitive data • Provide a policy on dealing with ex-offenders • To require employees to undergo DBS checks • Detailed booking records • Restrictions on the use of PCVs <p>These bring the policy in line with the Department for Transport Standards</p>
19.	The policy contains an amendment to Appendix 7 covering the suitability guidance. When drivers reach 9 penalty points on their DVLA licence they will be required to undertake a driver's awareness course and pass a driving assessment. This is current policy and keeps it in line with Eastleigh Borough Council.
20.	Medicals has been an area of difficulty which has been made worse by the pandemic. The requirement to use their own GP has proven to be too restrictive and has shown a large variation in fees charged. Allowing an approved provider to supply the medicals will allow officers to procure services from a small number of providers, making medicals easier and provide competitive pricing whilst maintaining standards.
21.	Some licence holders have expressed concern that in the consultation copy of the policy a condition on private hire vehicles requiring vehicles to be taken off of the road if it was not undertaking a hire was removed as they felt this weakened officers' powers in ensuring private hires were not illegally plying for hire. The condition was not enforceable or lawful as it denied the licence holder from freedom to use the vehicle lawfully when in private use. Private hire driver conditions have restrictions on plying for hire. This is a more appropriate method of ensuring compliance and has been in practice for the last ten years at least. The removal of this condition has not weakened officers ability to combat this type of behaviour.
22.	The Department for Transport recommends policies are reviewed every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
23.	Hackney carriage and private hire licence fees are ringfenced to cover the costs of administering the service. The fees are reviewed regularly. The changes may impact on the number of licences granted and therefore the income to the licensing service. It will have no impact on the council's general fund.
<u>Property/Other</u>	

24.	The movement of completing DBS checks to a private provider will reduce the time officers spend processing an application, however this saving has been more than taken up by right to work checks and next year officers will be required to undertake HMRC checks as well.
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LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

25.	Town Police Clauses Act 1847 Licensing of hackney carriages and hackney carriage drivers.
26.	Local Government (Miscellaneous Provisions) Act 1976 Licensing of private hire vehicles, drivers and operators and provides powers with regards hackney carriages and hackney carriage drivers.
27.	Local Government Act 2000 – Functions and Responsibilities Regulations 2000 Provides the framework for the discharge of various functions of a local authority.

Other Legal Implications:

28.	Crime and Disorder Act 1998 Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
29.	Human Rights Act 1998 The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person’s Human Rights must be taken having regard to the principle of Proportionality – the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another’s rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations

RISK MANAGEMENT IMPLICATIONS

30.	There is no risk to service delivery or financial risk for the authority. As not all sectors of the taxi trades agree with each other whatever is decided has a risk of reputational damage for the authority but this is likely to be limited to within the taxi trade s and some of those closely associated with them.
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POLICY FRAMEWORK IMPLICATIONS

31.	The proposed policy is not contrary to the Council’s policy framework
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KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	All
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1.	Proposed Taxi policy
2.	Department for Transport Statutory Taxi and Private Hire Standards
3.	Summary of the consultation responses
4.	Officers responses to the consultation
5.	Table of changes to the draft policy and appendices.
6.	Equality and Safety Impact Assessment

Documents In Members' Rooms

1.	None
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	