

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Licensing & Regulatory Committee

1st April 2022

TITLE:	Taxi and Private Hire Vehicle Licensing Policy review and consultation
EXECUTIVE COUNCILLOR:	Councillor Mike Bowen – Portfolio Holder for Communities
CONTACT OFFICER:	Alicia Patterson - Head of Environmental Health
WARDS INVOLVED:	All Wards

Appendices:

Appendix 1	Proposals regarding emissions
Appendix 2	Proposals regarding CCTV
Appendix 3	Sample Questionnaire for Consultation
Appendix 4	Statutory Standards - CCTV Guidance

1. Reason for the Report

- 1.1 The report proposes an approach to consultation for the review of the Council's current Hackney Carriage and Private Hire Policy .

2. Recommendation

- 2.1 That the Committee approves the key areas of the Policy for consultation and the consultation timetable as outlined within the report.
- 2.2 That, following the consultation period, the proposed revised Policy (together with a summary of key consultation comments) is considered further by the Committee at its meeting in October 2022, with a view to recommending a revised Policy to Full Council for formal adoption by the Council.

3. Executive Summary

- 3.1 It is a requirement that licensing authorities regularly review and update their policies to reflect changes in legislation, guidance and local circumstances. It has been 5 years since the introduction of the Council's Taxi and Private Hire Vehicle Licensing Policy, and it is proposed that a further detailed review is now required to consider the following specific areas of the Policy:

- Vehicle Emissions/Air Quality
- CCTV
- General Legislation and Best Practice

- 3.2 The report and appendices set out the background to the proposed consultation exercise and confirms the issues on which it is proposed specifically to consult.
- 3.3 The Council's Climate Change Action Plan (Part 1), agreed by the Cabinet on 29th June 2021, aims to ensure that all key Council strategies and policies support the Council's commitment to Carbon Zero by 2030. It is appropriate, therefore, to review the Council's Taxi and Private Hire Vehicle Licensing Policy to support this aim and to integrate climate change commitments into the policy. The consultation exercise proposes measures which will promote reductions in the emissions from licensed vehicles, by changing the Council's Policy regarding vehicle conditions.
- 3.4 The Taxi and Private Hire Vehicles Statutory Standards recommend that all licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues. The report outlines the proposed approach to be taken to this element of the consultation exercise, including the updating of the Council's current provisions in its Policy around CCTV and considering whether to make the installation of CCTV a mandatory requirement for all taxis.
- 3.5 It is a requirement that any revised Policy must be approved at a Full Council meeting. Such approval cannot be granted until consultation has been undertaken with a range of statutory bodies and other organisations as is deemed appropriate. Section 7.14 of the report outlines the proposed timetable in respect of the consultation and adoption of the revised Policy by the Council.

4. How this report links to Corporate Priorities

- 4.1 Supporting our communities to create a healthier, safer, cleaner Staffordshire Moorlands.
- 4.2 Protect and improve the environment including responding to the climate emergency.

5. Alternative Options

- 5.1 To agree to the consultation process and the timetable proposed for the implementation of the revised Hackney Carriage and Private Hire Licensing Policy (Recommended).
- 5.2 To refuse the consultation process and retain the Council's current policies and conditions (Not recommended).

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

The successful implementation of the Hackney Carriage and Private Hire Licensing Policy should have a positive impact on community safety and assist in the reduction of crime.

6.2 Workforce

The introduction of the revised policy may require additional resource for the Licensing Team which will be considered as part of the Council's usual workforce planning.

6.3 Equality and Diversity/Equality Impact Assessment

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

6.4 Financial Considerations

The introduction of a revised policy may have financial implications for the Private Hire and Hackney Carriage Vehicle owners.

6.5 Legal

The failure of the Council to review, consult and publish the Taxi Licensing Policy on a regular basis may result in Judicial Review proceedings being brought against the Council.

Decisions in relation to a licence are likely to amount to consideration of civil rights and obligations with the result that Article 6 (1) of the Human Rights Act 1998 is engaged.

Should parts of the industry believe the Council's Taxi Licensing Policy is not sound it would be open to them to undertake judicial review proceedings.

6.6 Climate Change

The Council is committed to tackling climate change and the proposed revision of this Policy will assist in ensuring that it contributes appropriately to this ambition.

6.7 Consultation

A full consultation will be undertaken and made available to the relevant organisations listed as follows:

- Derbyshire County Council Transport.
- High Peak Borough Council Planning Section.

- High Peak Borough Council Environmental Health Section.
- High Peak Borough Council Licensing Committee.
- The Hackney carriage and private hire trade, including all licensed operators and drivers within the Borough.
- Derbyshire Constabulary.
- Derbyshire Police & Crime Commissioner.
- Derbyshire County Council Trading Standards.
- Derbyshire Safeguarding Board.
- DVSA (Driver and Vehicles Standards Agency).

6.8 Risk Assessment

As considered within the report.

Mark Trillo

Executive Director (Governance & Commissioning)

Web Links and Background Papers

<https://www.gov.uk/guidance/driving-in-a-clean-air-zone#minimum-emission-standards>

The Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019: Statutory guidance

<https://www.gov.uk/government/publications/air-quality-taxis-and-private-hire-vehicles-phvs-database-guidance/the-air-quality-taxi-and-private-hire-vehicles-database-england-and-wales-regulations-2019-statutory-guidance>

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7. **Detail**

- 7.1 The licensing of Hackney Carriages is governed by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Private Hire Vehicles are governed by the Miscellaneous Provisions Act 1976. The 1976 Act places a duty on High Peak Borough Council, as the Licensing Authority, to licence all hire vehicles which operate from the Borough, which are provided with a driver and have less than nine passenger seats.
- 7.2 The Council's Taxi and Private Hire Vehicle Licensing Policy, which governs the way in which the Council will determine all applications which it receives for Hackney and Private Hire Vehicles, was approved by Council in 2016. The Policy was reviewed by the Licensing Committee in January 2021 in light of the Government's revised statutory guidance contained in the Statutory Taxi and Private Hire Vehicles Standards 2020 ("Statutory Standards"). As the Policy agreed in 2016 was developed with the specific intention of recognising the significant impact of regional failures around the safeguarding of children and vulnerable adults, and as a result incorporated many provisions that at the

time were only the subject of reports and studies but were felt to be of significance and likely to be required by government at some point in the near future, only limited changes to the Council's Policy were recommended at that time.

7.3 It is a requirement that licensing authorities regularly review and update policies to reflect changes in legislation, guidance and local circumstances. Other than the review last January, it has been 5 years since the introduction of the Council's Taxi and Private Hire Vehicle Licensing Policy, and it is proposed that a further detailed review is now required to consider the following specific areas of the Policy:

- Vehicle Emissions/Air Quality
- CCTV
- General Legislation and Best Practice

Vehicle Emissions/Air Quality

7.4 The Council's Climate Change Action Plan (Part 1), agreed by the Cabinet on 29th June 2021, aims to ensure that all key Council strategies and policies support the Council's commitment to Carbon Zero by 2030. It is appropriate, therefore, to review the Council's Taxi and Private Hire Vehicle Licensing Policy to support this aim and to integrate climate change commitments into this policy. Reductions in the emissions from licensed vehicles will also contribute towards the Council's obligations with regards to air quality management in the Borough.

7.5 The Council's current Policy requires that all new vehicles presented for licensing must have no damage affecting the structural safety of the vehicle and have no more than 75,000 miles on the odometer along with a valid MOT certificate which has been issued no more than one month prior to the application being submitted. It is proposed to consult on the removal of the 75,000 mile requirement to allow drivers to source vehicles with a higher mileage but to introduce instead vehicle standards which will reduce the emissions from licensed vehicles.

7.6 It is proposed to consult on revisions to the Policy to require licensed vehicles to comply with the emission requirements below (detailed in Appendix 1):

- At first application – Vehicles must meet or exceed Euro 6 (Diesel) Euro 4 (Petrol) emissions standards.
- At renewal – From 01/04/2024 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 6 emissions standards (Diesel) Euro 4 (Petrol) emissions standards.

Where vehicles do not meet the relevant emissions criteria the proprietor may:

- have the vehicle adapted/modified to meet the standard and provide evidence of this;
- change the fuel that is used to a cleaner alternative, such as bio diesel; or
- replace the vehicle with one that meets the emission standard.

CCTV

7.7 The Statutory Taxi and Private Hire Vehicle Standards 2020 confirm the Department for Transport's view that CCTV can provide additional deterrence to prevent the possibility of harm to taxi passengers and provide investigative value when it does. The Standards suggest that the use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.8 The Standards recommend that all licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues. The guidance indicates that while only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. It also recognises that the imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will, therefore, require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is contained in an annex to the Standards and attached in this report at Appendix 4.

7.9 The Council's current Taxi and Private Hire Vehicle Licensing Policy provides that image recording systems may (but not must) be used in hackney carriage and private hire vehicles licensed by the Council only where the equipment and systems comply with the specification detailed in the Policy and where consent in writing has been issued to the licensee of the vehicle in advance of use.

7.10 It is proposed, therefore, to carry out consultation regarding the use of CCTV in taxis on the basis of the details contained in Appendix 2 attached. These proposals outline the changes which will be required in any event to the Council's existing policy, and outlines the key issues which the Policy must address in this area including, in particular, in relation to data protection. It is further proposed, within the consultation questionnaire (attached at Appendix 3 of the report), to consult on the potential for all taxis to be required to have CCTV in place as a condition of their licence. Such a mandatory condition would, as highlighted in Appendix 2, have the potential implication of the

Council becoming the “data controller” under the Data Protection Act 2018 and as such become the body which has legal responsibility under the Act for all matters concerning the use of personal data. It is recommended that the Council consider the outcome of the consultation exercise and at that stage determine whether to require the installation of CCTV in all taxis, in which case, at that stage, it will be necessary to confirm the detailed arrangements to give effect to that decision.

General Legislation and Best Practice.

- 7.11 As previously indicated, the Council’s Taxi and Private Hire Vehicle Licensing Policy was reviewed by the Licensing Committee in January 2021 in light of the Government’s revised statutory guidance contained in the Statutory Taxi and Private Hire Vehicles Standards 2020.
- 7.12 At that review only limited changes to the Council’s Policy were recommended, including: a requirement for all drivers on submission of their next DBS Certificate to sign up to the DBS on-line checking service; agreement of a formal information sharing protocol with Derbyshire Police; and proposed changes to the assessment of previous convictions in the determination of licence applications. It is proposed that these changes to the Policy are included in the consultation exercise, together with consideration of any further proposed changes to ensure that the Council’s Policy reflects best practice.

Consultation

- 7.13 It is a requirement that any revised Policy must be approved at a full Council meeting. Such approval cannot be granted until a consultation has been undertaken with a range of statutory bodies and other organisations as is deemed appropriate.
- 7.14 The following timetable is proposed in respect of the consultation and adoption of the revised policy:

CONSULTATION ITEM	TIMESCALE & DETAIL
Vehicle Emissions/ CCTV in Vehicles (Mandatory or Discretionary)	<p>JUNE 2022 (12 Weeks)</p> <p>The proposed options are contained in Appendices 1 & 2 attached to the report.</p> <p>The consultation will seek to engage all of the Hackney Carriage and private hire trade including all licensed operators and drivers within the District as follows:</p> <ul style="list-style-type: none"> • A questionnaire will be sent out to all Hackney Carriage and Private Hire Drivers and Vehicle owners (Appendix 3 sample questionnaire)

CONSULTATION ITEM	TIMESCALE & DETAIL
	<ul style="list-style-type: none"> • Copies of consultation proposals be available to view on the Council’s website and a hard copy will be made available at the Reception in Moorlands House. • Correspondence will be sent out to all Hackney Carriage and Private Hire operators and drivers licensed with the Authority. • Several drop-in sessions will be scheduled to take place at Leek and Biddulph within the 12 week consultation period to accommodate representatives from the trade and other organisations to discuss any concerns or questions they may have about the proposed amendments. • The dates of the sessions will be included and advertised in the consultation information.
Consultation Responses	<p>September/October 2022</p> <ul style="list-style-type: none"> • Consultation responses received by the Council will be collated, discussed and presented to the Licensing & Regulatory Committee for consideration, and a decision to undertake further consultation or to recommend a revised Policy to Council for adoption may be taken.
Adoption of the revised policy	November to January 2023