

Report for: Regulatory Committee

Date of Meeting:	1 December 2023
Subject:	HACKNEY CARRIAGE AND PRIVATE HIRE (TAXI) POLICY UPDATE
Cabinet Member:	Cllr David Wulff Cabinet Member for Community & Leisure
Responsible Officer:	Simon Newcombe Corporate Manager for Public Health, Regulation and Housing
Exempt:	No
Wards Affected:	All wards
Enclosures:	Annex A – Updated Hackney Carriage and Private Hire Policy 2023

Section 1 – Recommendations

The purpose of the report is present to members a comprehensive update to the existing Hackney Carriage and Private Hire Policy (the Policy) following an in-depth review. The review has identified a number of proposed changes which are summarised below and include; updated safeguarding provisions, a revised previous convictions policy, revisions required due to legislative changes and the introduction of new requirements regarding code of conduct and a penalty point scheme.

The aim of the updated policy is to ensure it remains fit for purpose and provides a workable, fair and compliant policy for the regulation of the taxi trade in Mid Devon. Furthermore, that the policy enables continued public confidence in the taxi licensing regime where drivers and vehicles are fit for purpose in order to protect public well-being and ensure the safety of users.

The following recommendations are made in respect of taking the updated policy forward for formal consultation:

- 1. That Members consider the draft proposed policy document attached in Annex A and the key changes to the current Policy set out in Section 3 of this report.**

2. To authorise for a formal consultation of that draft proposed policy for a period of 3 months from January 2024 set out in Section 4 of this report.

Section 2 – Report

1.0 Introduction

- 1.1 The current Mid Devon District Council (the Council) Policy was approved in November 2018 after going out to consultation. Some minor amendments were made to the Policy in July 2019 which did not require the Policy to go out to consultation.
- 1.2 The Policy is subject to review every 3 years. The review was due in 2022, however, due to staff availability and resource, the review was delayed until 2023.

2.0 Limitations of existing policy

- 2.1 The current Policy provides a robust framework for processing and determining applications and the standards for licensees to meet, however there are limited options for dealing with situations of minor non-compliance. This becomes an issue where such non-compliances accumulate, as they present indicators that the licensee is no longer fit and proper to hold a licence from the Council. The new Policy aims to address this issue.
- 2.2 The existing Policy defines conditions to be applied to dual Hackney Carriage and Private Hire driver licences. Whilst the legislation allows conditions to be attached to a Private Hire driver's licence, they cannot be attached to a Hackney Carriage driver's licence. The revised policy will therefore provide an alternative approach to ensure driver standards are consistent across the different types of licenced vehicles.
- 2.3 There is limited consideration of the impact an ageing Taxi fleet has on the environment within the existing Policy. Central Government strategy to reduce the impact from vehicle emissions is well established and we should consider aligning our Policy, to ensure that we are moving the Council's licenced Taxi fleet in the right direction. There are a number of options to achieve this, these are explored further in section 5.
- 2.4 The Low Carbon Vehicle Partnership (Zemo Partnership) and Energy Saving Trust (EST) note that *“Currently there are more than 290,000 licenced taxi and private hire vehicles across England and Wales, and 23,000 in Scotland. The average traditional UK black taxi is 12 years old and so these older vehicles are experiencing ever-greater scrutiny by licensing bodies and authorities due to the high level of emissions they produce. Encouraging a transition to newer, low emission vehicle types within city centres is essential to improve urban air quality and reduce greenhouse gas emissions in line with national targets.”*
- 2.5 20% of MDDC licenced vehicles are currently over 10 years old.
- 2.6 The revised policy will not address this issue in its entirety, however it is suggested that we include considerations about this issue in the consultation

process and look at a stepped approach, which can be planned in line with wider Council Corporate policy.

- 2.7 The revised policy document has been drawn up utilising templates from James Button Solicitors. James Button is the current President of the Institute of Licensing and specialises in taxi law.

3.0 Proposed changes

- 3.1 The revised policy provides a number of significant changes as well as minor changes to wording and format. The main changes are described below:

3.2 Introduction of a Code of Conduct

- 3.2.1 The Code of Conduct would replace existing conditions on dual driver licences. The primary aim is to ensure that the standards of behaviour are the same when drivers are driving either type of vehicle.

- 3.2.2 The Code of Conduct outlines the standards of behaviour which are expected of holders of Hackney Carriage and Private Hire dual driver licences.

- 3.2.3 Failure to comply with the requirements may lead to enforcement action being taken against the licence holder. This could be by way of penalty points attached to the licence, suspension, revocation or refusal to renew the licence.

3.3 Introduction of a penalty points scheme

- 3.3.1 A key change is the introduction of a penalty points scheme (the Scheme). Points can be applied to any type of licence; driver, vehicle or operator and are valid for a period of 36 months.

- 3.3.2 There are a number of options for the duration that penalty points should be valid on a licence, normally with a range from 12 to 36 months. By setting validity of points to 36 months, this means that those points will be relevant for a longer period of time, and ultimately increase the referrals to Sub-committee. This can be explored further through the consultation process.

- 3.3.3 It should be noted at this stage that the Scheme is intended to identify the *minority* of licensees who do not conform with standards, so it is not anticipated that numbers of referrals will be high. Referral numbers will be monitored as it could be an indication that the initial tests considering fitness and propriety of applicants need to be reviewed.

- 3.3.4 The primary objective of the Scheme is to improve the levels of compliance and to help improve the standards, safety and protection of the travelling public.

- 3.3.5 The Scheme works in conjunction with other enforcement options. It provides a formalised stepped enforcement plan. The purpose of the Scheme is to record misdemeanours and to act as a record of licensees' behaviour and conduct so as to ascertain whether they remain a fit and proper person to be a vehicle driver or operator and/or suitable to hold a vehicle licence. It does not prejudice the Council's ability to take other action.

3.3.6 Points can be applied for failure to comply with vehicle and operator conditions, the Code of Conduct for drivers, as well as any non-compliance with legal requirements. The criteria for application of points is defined within the revised policy, this is essential to ensure consistency.

3.3.7 Licensees can accumulate 11 penalty points in any rolling 36 month period, the 12th point would result in referral to the Regulatory Sub-committee for consideration as to whether they remain a fit and proper person to hold a licence from the Council.

3.4 Increased testing frequency of vehicles over 5 years of age

3.4.1 The Council does not restrict age or emissions levels for existing licenced vehicles on renewal of the licence (so called ‘grandfather’ rights). The revised policy does not introduce any restriction, however there is an increased testing frequency for vehicles over 5 years of age to every 4 months, this is currently 6 monthly.

3.4.2 This is to ensure vehicles remain safe and suitable. Under the existing Policy, licensees arrange for the taxi vehicle test and MOT to be carried out at the same time. This change will ensure that tests are spread across a 12 month period, and that any defect or issue will be identified and addressed more efficiently.

3.5 Overview of significant changes against existing Policy

3.5.1 As the revised policy is quite different in format to the current Policy it would be difficult to track changes on the current Policy. The main differences between the existing Policy and the revised policy are therefore outlined in the table below. Note – page numbers refer to the revised policy.

Overview of proposed changes to MDDC Hackney Carriage and Private Hire Policy 2023					
Section	Page no.	Key change	Reason for change	Negative impact of change	Positive impact of change
Main Policy	26	Safeguarding training to be renewed every 3 years for drivers. Currently no renewal required	Safeguarding is a key responsibility of a licensed driver. Where licenses are held for many years, this understanding of safeguarding issues can be lost. 3 yearly update training will also ensure drivers are informed of more up to date risks and issues.	Cost to licensee for training every 3 years.	Increased awareness of safeguarding responsibilities for drivers. Safer night time economy.
	26	Requirement for operators and proprietors to	Operators (and proprietors) are in a position where they have visibility of activity within	As above.	As above but for operators and proprietors.

		undertake safeguarding training and renew this every 5 years	the night time economy. It is important that they understand their safeguarding role within this environment. It is not considered necessary to update as frequently as drivers as they are a step up from the contact with service users.		
Appendix 1	31	Penalty Point Scheme	This is new and provides a framework for dealing with non-compliance. Currently the licensing team have challenges over how to deal with such issues, as it is not provided for within the existing Policy. This enables points to be applied for all non-compliances, and over a period of 36 months trigger referral to a Sub-committee if behaviour/issues accumulate.	Additional administrative burden on licensing team.	Resolution of issues that currently have no process to deal with. Use of Lalpac module (a software programme) for penalty points scheme, to maintain records. Streamlined and consistent approach to non-compliance.
Appendix 2	41	Previous convictions policy	All limits for previous convictions are the same as current Policy. The main difference is this is now in a stand-alone Appendix.	None.	Easier to read and understand for applicant or licensees.
Appendix 3	54	Driver licence policy and Code of Conduct: Immigration status check using share code	To introduce the use of share codes to prove immigration status.	None.	Accuracy of information improved.
	54	Requirement to register for tax purposes and provide HMRC character code/ need to register for	This is current procedure due to legislative changes in 2022 however not written into our Policy.	None.	Compliance with the law.

		tax and acknowledge receipt of this advice			
	55	Requirement to complete driving course every 10 years. Currently only on new application	To ensure that driver standards are maintained and that bad habits are not introduced over time.	Cost to licensee.	Improved driving standards and consistency.
	56	Right to request a second opinion on medical fitness where there are concerns about a driver	Where information or intelligence has been received that a driver may not be fit to drive under the licence, this will enable us to require an additional check of driver medical fitness.	Cost to applicant/licensee.	Public safety.
	57	Ties the exemption certificate in with medical certificate duration. Maximum of 5 years.	Ensures at every medical the exemption is considered.	None.	Continuity and consistency.
	60	Code of conduct	Introduction of code of conduct to define driver expectations and accepted behaviours.	None.	Improved standards and consistency.
Appendix 4	Main content	Proprietor's licence policy and conditions	Main content is as the existing Policy applies conditions to vehicle licences	None.	None.
	80	Exceptional condition	Introduces a set of parameters used to consider vehicles over 5 years old that are presented for a licence. This will help to ensure only suitable vehicles over this age will be licenced.	None as relates to new and not existing vehicles	Consistency, assist meeting emissions standards.
	88	Vehicle testing	Increased frequency of testing for vehicles over 5 years of age to 4 monthly from current 6 monthly.	Cost to licence holder.	Ensure vehicles safe and suitable and within

					emissions standards.
Appendix x 5	104	Private Hire (PH) Operator licence policy and conditions: Guidance leaflet on complaints	Leaflet for customers to provide guidance on how to make complaints about a driver/operator.	None.	Improved intelligence and information from hirers.
	104	Previous convictions policy for staff	For the PH Operator to introduce a policy to check criminal history for all staff in line with the Council's Policy. This will ensure that staff working for the PH Operator are assessed against the same standards as the Operator themselves.	Time and cost to Operator.	Public safety.
	107	DBS for staff	Requirement for PH Operator to require staff to provide a Basic DBS certificate.	Time and cost to Operator.	Public Safety.

3.6 Update of the driver's handbook

3.6.1 The driver's handbook provides a reference document covering the key Policy content that defines drivers' behaviour and conduct, this is currently provided as a paper copy on grant of licence. The handbook will require updating and it is proposed that the handbook is made available as an electronic document only, with links to the relevant sections of the Policy. This is to ensure that drivers have access to the most up to date information. Consideration was made to providing this as a hard copy available in vehicles, however with the accessibility of mobile technology, this is not deemed necessary.

4.0 Consultation

4.1 It is proposed that a three-month (12week) consultation be carried out with the following individuals and organisations:

Members, residents (via Let's Talk Mid Devon), the local Hackney Carriage and Private Hire trade (including all licence holders), Devon and Cornwall Police, Devon County Council; Public Health (MDDC); Community Safety Partnership (MDDC); Town & Parish Councils within Mid Devon; the Department for Transport; the Driver & Vehicle Standards Agency; Age UK.

5.0 Further considerations required during the consultation process

- 5.1 This Policy revision does not address the issue detailed at 2.3 of this report. There are a number of routes to take when considering a commitment to reduce the impact on the environment from the vehicles we licence, for example; imposing Euro standards on emissions for all vehicles, including at licence renewal; aligning with central government policy on targets for ultra-low emissions vehicles; or considering an alternative, such as limits on CO₂ production.
- 5.2 The Council has an aging fleet of licensed Hackney Carriage and Private Hire vehicles, with 20% of vehicles over 10 years of age and 92% of the fleet registered prior to the date for compliance with Euro 6 emissions standards. In addition, we are starting to receive applications for vehicles that have been refused in neighbouring authorities, due to restrictions within their policies, reinforcing that our current Policy does not go far enough on this matter.
- 5.3 The impact of any immediate policy change is likely to be significant on the trade, and our number of licenced vehicles, so it is essential that this is carefully considered, aligns with the Council's Climate Action Plan and timescales are provided to enable a staged approach to any change.
- 5.4 It is therefore proposed that through the consultation process, we will seek views on how to address challenges around the aging fleet. This will help inform decisions at the end of the consultation process on whether we include additional limits within this policy revision, or alternatively look to make changes in the next policy review.

6.0 Recommendations

- 6.1 In accordance with the above, the following recommendations are made:
1. That Members consider the draft proposed policy document attached in Annex A and the key changes to the current Policy set out in Section 3 of this report.
 2. To authorise for a formal consultation of that draft proposed policy for a period of 3 months from January 2024 set out in Section 4 of this report.
- 6.2 Following consultation, the policy will be further reviewed and updated as required and a final draft policy will come back to the Regulatory Committee for consideration together with a summary of the consultation responses.

Financial Implications: There are no financial implications for the Council that are not met from existing resources. The income from the licences is used to offset the running of the service. The service is not self-funding as some of the fees are set at a national level and therefore do not fully cover costs. Where possible the fee income is used to reduce the contribution of the general fund to the running of the service.

Legal Implications: The main legislation regulating Hackney Carriage and Private Hire vehicles is the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976. The Council has not adopted the byelaws relating to Hackney Carriages, so the use of policy, and through this, the application of conditions is vital to ensure robust and consistent enforcement of licensees within the trade. A policy change can be judicially reviewed.

Risk Assessment: Provision of the licensing service is statutory obligation. The overall aim of the policy and conditions is to ensure public safety. However a balance is required to ensure that conditions are realistic and achievable. In the event of a successful judicial review the Council could be liable for costs.

Impact on Climate Change: Taxis and other taxi-like services in the United Kingdom produced 3.1 million metric tons of carbon dioxide emissions in 2021. Emissions from these modes of transportation have more than doubled when compared to 1990 levels. Transportation is now the most polluting sector in the UK.

Equalities Impact Assessment: An equality impact assessment is not required in respect of this report. However, such an assessment will be required in relation to the final policy that is presented to Members.

Relationship to Corporate Plan: This report links directly to the Licensing Authority functions of the Council with the primary aim of protecting public safety and ensuring the well-being of our community and licensed service users. It therefore contributes to the priority of Community within the Corporate Plan.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151
Date: 14 November 2023

Statutory Officer: Maria De Leburne
Agreed on behalf of the Monitoring Officer
Date: 14 November 2023

Chief Officer: Simon Newcombe
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 13 November 2023

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 16/11/2023

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Harriet Said, Team Leader (Commercial), Public Health or Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

Email: hsaid@middevon.gov.uk / snewcombe@middevon.gov.uk

Telephone: 01884 255255

Background papers:

Current Hackney Carriage and Private Hire Policy 2019: [final-hackney-carriage-and-private-hire-policy.pdf \(middevon.gov.uk\)](#)

Department for Transport:

'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance':

<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>

'Statutory taxi and private hire vehicle standards':

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

Institute of Licensing: Guidance on determining the suitability of applicants & licensees - hackney & private hire trades:

<https://www.instituteoflicensing.org/media/judpocw/guidance-on-suitability-online-pdf-2.pdf>

Taxis and Private Hire Vehicles (Disabled Persons) Act 2022:

<https://www.legislation.gov.uk/ukpga/2022/29/introduction/enacted> and <https://www.gov.uk/government/news/most-significant-change-to-taxi-and-private-hire-vehicle-accessibility-legislation-in-12-years>

Tax checks for taxi drivers: <https://www.gov.uk/guidance/confirm-a-tax-check-for-taxi-private-hire-or-scrap-metal-licence-applications>

[LowCVP Low Emission Taxi Guide-March 2019 Update.pdf \(zemo.org.uk\)](#)

Right to work checks guidance:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks/guidance-for-licensing-authorities-to-prevent-illegal-working-in-the-taxi-and-private-hire-sector-in-the-uk-accessible>

Carbon dioxide emissions of taxis and taxi-like services in the United Kingdom (UK) from 1990 to 2021 [UK: taxi service CO₂ emissions 1990-2021 | Statista](#)