

REPORT OF THE HEAD OF HUMAN RESOURCES AND DEVELOPMENT

**TO ADOPT THE UPDATED POLICY AND CONDITIONS RELATING
TO HACKNEY CARRIAGE AND PRIVATE HIRE OPERATIONS**

REASON FOR REPORT

1. Mid Devon District Council has an adopted policy and set of conditions setting out how hackney carriage and private hire operations are regulated. This report puts forward an updated policy as the current one is due for review, having been in place for three years.

RECOMMENDATIONS

1. That Members consider the proposed changes in the draft policy document, along with the comments made and then resolve to adopt the reviewed policy.

RELATIONSHIP TO CORPORATE PLAN

1. None except for emissions standards in relation to caring for the environment

FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS

Any financial, legal and/or risk assessment implications are set out below:

Financial	There are no financial implications for Mid Devon District Council that are not met from existing resources
Legal	Conditions for hackney and private hire operations need to be lawful
Risk Assessment	Conditions need to strike the balance between ensuring public safety as well as compliance from those regulated.

CONSULTATION CARRIED OUT WITH:

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| 1. | Every licensed driver, vehicle owner and operator as the policy directly affects how they run their businesses |
| 2. | Police; Devon County Council; Public Health (MDDC); Community Safety Partnership (MDDC); Town & Parish Councils within Mid Devon; Department for Transport; Driver & Vehicle Standards Agency; Age UK. |
| 3. | The consultation was also published on the MDDC website. |

1.0 CURRENT SITUATION AND CONSULTATION

1.1 The existing Hackney Carriage & Private Hire Licensing Policy was adopted by Mid Devon District Council on 27 February 2013 and came into force on 1 April 2013.

1.2 The existing policy introduced, amongst some other small alterations, two key changes to hackney carriage and private hire licensing in Mid Devon. They were as follows:

1.3 Vehicle inspections

A comprehensive vehicle inspection manual was introduced based on best practice guidance issued by the Hackney Carriage and Private Hire Inspections Technical Officer Group. This manual is used by authorised garages and officers to assess the safety and compliance of vehicles. Furthermore, the frequency of vehicle testing was increased from annual checks on vehicles over 3 years old to 6 monthly checks.

1.4 Age limit

It was decided to introduce a rolling 5 year age limit on new vehicles. Any new applications for older vehicles would be referred to a Sub-Committee, unless the vehicle was wheelchair accessible, a 'classic' or a limousine, in which case exceptions may be made.

1.5 These changes seem to be working well from a licensing perspective and therefore remain unchanged.

1.6 The consultation on the proposed new policy took place from 18 December 2015 to 12 February 2016.

1.7 We consulted widely, circulating to all of the trade (a copy of the newsletter sent to the trade inviting comment is attached as Annexe 1), Police; Devon County Council; Public Health (MDDC); Community Safety Partnership (MDDC); Town & Parish Councils within Mid Devon; Department for Transport; Driver & Vehicle Standards Agency and Age UK.

1.8 The consultation was also published on the Mid Devon District Council website.

2.0 CHANGES TO POLICY

2.1 The most notable updates and changes to the policy are highlighted below.

2.2 Structure and layout

Amendments have been made to the way the policy itself is presented. The document now contains additional information and is therefore larger than previous versions. It is hoped that the new structure makes it easier to navigate and for interested parties to find the information they require. The Licensing Team are currently exploring options for producing a summary booklet for licence holders, which condenses and summarises all of the key information from the policy.

2.3 Guidance on processes

Additional information on the general application processes has been included. The idea is to try and ensure the new policy is, as far as possible, a 'one stop shop' where applicants can access all of the required information. Guidance has also been included on how complaints are investigated by the licensing team to ensure relevant parties are aware of what to expect.

2.4 Aims and objectives of licensing

Much like the Licensing Act and the 4 licensing objectives we have now introduced what we believe to be the core principles underpinning the hackney carriage and private hire licensing regime. The 5 aims and objectives are as follows:

- The protection of public health and safety
- The prevention of crime and disorder
- The safety and health of drivers
- Vehicle safety, comfort and access
- Environmental protection

Although the above points have always been promoted via policies of the past it is hoped that by identifying them clearly everyone involved with the licensing process can better understand our function and the reasoning behind decisions made and actions taken.

2.5 Convictions policy

This has been expanded on greatly to provide all parties with more information on the process undertaken when establishing whether or not an applicant or licence holder is fit and proper. The policy takes on board information from the Local Government Associations 'Taxi and PHV Licensing Criminal Convictions Policy', 2010 guidance and also reflects recent safeguarding concerns nationally e.g. Rochdale. As a result of these changes, some of the related licensing application forms have also been amended to ask for additional details i.e. any pending convictions.

2.6 Conditions and requirements of licences

Conditions and requirements have been amended. It is hoped they are clear and easy to access (each set of conditions now appear in a separate appendix). Examples of added conditions include:

- Banning the use of electronic cigarettes and vaporisers in vehicles (as well as the ban already in place in relation to smoking in vehicles) in line with corporate policy
- Clear requirements to notify the licensing department of any warnings, cautions, convictions, arrests etc. within 72 hours
- A dress code has been added, with emphasis on what cannot be worn.

3.0 ADDITIONAL RECOMMENDED AMENDMENTS TO THE POLICY

3.1 During the consultation period the licensing department noted the following potential improvements to the draft policy. They are not considered major points but nonetheless are brought to the attention of Members to hopefully agree.

3.2 Disclosure and Barring checks

Paragraph 5.7.3 makes reference to the results of a Disclosure and Barring check. It is recommended that the following sentence is included:

When a DBS check has been completed and the results are requested by the Council, they must be provided within 72 hours.

It is further recommended that this point be included as a condition of the dual driver licence (Appendix C).

3.3 Conditions

As part of paragraph 4.0 of the driver conditions (appendix C) it was proposed to include a point relating to the operation of hackney carriage vehicles at ranks. It is recommended that this condition be removed for two reasons. Firstly, although this authority issues dual licences, it is a matter of debate about whether or not conditions relating purely to the operation of hackney carriages can be placed on a drivers licence. Secondly, the point relating to leaving a vehicle unattended at a rank is already an offence under the Town Police Clauses Act 1847. There is therefore no need to duplicate this as a condition.

3.4 Conditions of notification

Throughout the Policy it states that licence holders must notify the Council within 72 hours of any arrests, charges and convictions etc. It is suggested that these sections be amended to include a requirement to notify the Council of 'any pending charges, to include any notices of intended prosecution'. This requirement should be applied to paragraph 5.7.5 of the policy, and the following Appendices; B (paragraph 4.4); C (paragraph 1.2); E (paragraph 16); and J (paragraph 5.1).

3.5 Potential enforcement action

Paragraph 8.3.4 states that the Council may suspend a driver or operator licence. This should be amended to include reference to revocation also.

3.6 Dress code

Paragraph 5.1 of the dress code (Appendix D) sets out what is considered unacceptable. The final point in relation to hoods and 'other clothing' should be amended to state 'the wearing of headgear unless for religious purposes'.

3.7 Vehicle 'transfers' and discounts

The policy proposes a system of applying a 'discount' to new vehicle applications should a proprietor surrender an existing vehicle licence at the same time i.e. transfer a plate from an old vehicle to a new vehicle. This is because there is no mechanism in the legislation to simply 'transfer' a licence in this way. The discount was stated as being calculated using the amount of time left on the licence being surrendered and the fee initially paid for that licence. As an example, if an applicant paid £180.00 for a vehicle licence and six months later brought a new vehicle to licence, they would have £90.00 deducted from the cost of the new vehicle application, leaving £90.00 to pay. This was put in place to encourage drivers to update vehicles with the benefit of continually improving the standard of vehicle that this authority licences.

On considering the example further it was noted that in the unlikely event of a proprietor replacing a vehicle with 11 months still remaining on the licence, the discount to be applied to the new application would be £165.00 (if we consider the example given above). This leaves only £15.00 to pay. From a licensing authority perspective, this does not cover the costs of the associated administrative work and for this reason it is suggested that a cap be introduced of £120.00 on the maximum discount that can be applied. The policy should be updated accordingly.

4.0 RESPONSES TO THE PROPOSALS

- 4.1 Three responses were received in total; all of which are detailed in the table attached as Annex 2. The table also contains the licensing officer's comments on these responses and any resulting suggestions to amend the draft policy.

5.0 RECOMMENDATIONS

- 5.1 The final proposed policy for adoption is attached as Annex 3. It contains, as tracked changes, the amendments highlighted in section 3 of this report and the suggested amendments in Annex 2. It also contains some very minor typographical corrections. If Members have comments on any other part of the draft document then those, and any subsequent changes, would also be agreed at the meeting.

6.0 TIMESCALE

- 6.1 It is proposed that the agreed policy will have immediate effect from when it is agreed and adopted.

Contact for any more information	Mr Tom Keating - 01884 244618 Mr Simon Newcombe
Background Papers	Previous HC & PH Policies, DFT's Best Practice Guide, Public Authority Transport Network Technical Officer Group's National Inspection Standards Best Practice Guidance, Local Government Associations Taxi and PHV Licensing Criminal Convictions Policy.
File Reference	Licensing/Taxi/Mid Devon Policies
Circulation of the Report	Regulatory Committee / Respondee