
Subject: REVISED HACKNEY CARRIAGE & PRIVATE HIRE LICENSING POLICY

Meeting and Date: Cabinet – 7 January 2012

Report of: John Newcombe, Licensing Team Leader

Portfolio Holder: Councillor Nigel Collor, Portfolio Holder for Access and Property Management

Decision Type: Key Decision

Classification: Unrestricted

Purpose of the report: To seek approval for adoption of the revised draft Hackney Carriage & Private Hire Licensing Policy following two periods of consultation.

Recommendation:

1. That Cabinet consider all of the responses received during the two periods of consultation and approve the revised Hackney Carriage & Private Hire Licensing Policy.
2. That the Licensing Team Leader be authorised to make any minor or typographical amendments to the revised Hackney Carriage & Private Hire Licensing Policy which may prove necessary following approval.

1. Summary

1.1 The draft Hackney Carriage & Private Hire Licensing Policy was approved by Cabinet on 16 April 2012 for a period of consultation.

1.2 The initial consultation ran for a period of 12 weeks, from 1 May 2012 to 25 July 2012 and letters were sent to the following:

- Dover Federation of Licensed Taxi Operators
- Taxi and Private Hire Drivers & Proprietors
- Private Hire Vehicle Operators
- Kent Police
- Kent County Council
- East Kent Coastal PCT
- Department for Transport
- Network Rail
- Disability Groups
- Transport User Groups
- Area Forums
- Local transport providers
- Dover, Deal & Sandwich Town Councils
- Parish Councils
- Dover Harbour Board
- Age Concern
- Centres for the Retired

- 1.3 A copy of the consultation letter is included at **Appendix A**. A total of 24 printed copies of the revised policy were sent out to individuals and organisations who requested them following receipt of the letter.
- 1.4 The draft policy was also published on the Council's website and discussed at length during a meeting of the District Taxi Forum on 20 June 2012, to which all operators, proprietors and drivers were invited.
- 1.5 A total of three responses were received following the initial consultation, and representatives at the Taxi Forum also made a number of comments. These comments are included at **Appendix B**.
- 1.6 As a result of the responses a number of significant changes were made to the draft policy and, following a decision by the Leader of the Council, the revised draft policy was published for a further 6 week consultation to allow proper consideration by interested parties.
- 1.7 The second consultation ran for a period of 6 weeks from 8 October 2012 to 19 November 2012. A copy of the second consultation letter is included at **Appendix C**. The consultation letter was sent to the same list of consultees as the first consultation and also published on the Council's website.
- 1.8 One further written response was received during the second period of consultation and feedback was also received from the meeting of the Dover District Disability Focus Group which the Licensing Team Leader attended on 8 October 2012. Copies of these further representations are included at **Appendix D**.

2. **Introduction and Background**

- 2.1 Dover District Council has responsibility for licensing Hackney Carriage and Private Hire Vehicles, Drivers and Operators within the Dover District area under the Local Government (Miscellaneous Provisions) Act 1976, The Town Police Clauses Act 1847 as amended by the Public Health Act 1875.
- 2.2 The current Hackney Carriage & Private Hire Licensing Policy was adopted in December 2008 and, in line with other Licensing Policies, is due for review. The revised policy brings together a number of different practices, policies and procedures, which have been developed on a piecemeal basis over the years into one single document which covers the whole Hackney Carriage and Private Hire licensing regime.
- 2.3 The revised policy has also taken into account the 'Best Practice' guidance issued by the Secretary of State for Transport and also recent guidance issued by the Criminal Records Bureau concerning enhanced disclosures for Hackney Carriage and Private Hire Drivers.
- 2.4 The policy introduces substantive changes to previous policies and practices, which will have an impact on the licensing trade, public and key stakeholders such as disability access groups. It was therefore essential that the policy was subject to proper and meaningful consultation and that all representations made are properly taken into account before any final decision is made regarding the adoption of the policy changes. Failure to consider any representations received following the two consultation periods could lead to future policies and decisions being challenged by way of judicial review proceedings on the grounds of procedural unfairness. Cabinet

must therefore have regard to any objections raised and alternative proposals before deciding whether or not to approve the policy.

- 2.5 A preliminary Equality Impact Assessment has been carried out in accordance with corporate policy and is attached at **Appendix E**. The assessment highlights a number of areas for concern, including potential discrimination for applicants, licence holders and passengers alike. These issues have been addressed in the policy to ensure that the treatment of applicants, licence holders and passengers remains fair and consistent.
- 2.6 It is proposed to carry out a full Equality Impact Assessment during the three year period of the revised policy, in particular to engage more fully with our disabled passengers to see if more can be done to help improve access to wheelchair accessible vehicles and also with regard to the availability of wheelchair accessible vehicles in rural areas as highlighted in the feedback from the Dover Disability Focus group on 8 October 2012 (**Appendix D**).
- 2.7 A copy of the revised policy is attached at **Appendix F**.
- 2.8 Cabinet will be aware that previous decisions in relation to hackney carriage & private hire licensing were made by the Regulatory Committee. Since this time, there has been a very significant decision in the Court of Appeal in relation to the discharge of local authority functions. In the case of *R. (on the application of 007 Stratford Taxis Ltd) –v- Stratford on Avon DC [2011] EWCA Civ.160* the Court adopted a very restrictive view of the interpretation of the Local Authorities (Functions & Responsibilities) (England) Regulations 2000. The effect of this decision is that some decisions which had previously been widely regarded as being decisions to the ‘council side’ of the authority must now be discharged by the executive – even though they appear to underpin regulatory functions.

3. **Identification of Options**

- 3.1 To approve the revised Hackney Carriage and Private Hire Licensing policy for adoption without amendment. (recommended)
- 3.2 To approve the revised Hackney Carriage and Private Hire Licensing policy for adoption with amendments.
- 3.3 To reject the revised Hackney Carriage and Private Hire Licensing policy and retain the existing Policy.

4. **Evaluation of Options**

- 4.1 To approve the revised Hackney Carriage and Private Hire Licensing policy for adoption without further amendment. (recommended)

The revised Taxi Licensing Policy (**Appendix F**) contains a large number of changes from the previous policy which improve the safety of the travelling public and also ensure fair and consistent treatment of licence holders. The changes affect members of the taxi trade and also the travelling public, including disabled persons. The changes are summarised in **Appendix A** and **Appendix C**.

4.2 To approve the revised Hackney Carriage and Private Hire Licensing policy for adoption with further amendments.

The revised policy takes into account a number of issues that have been raised by Members, Officers and the Taxi Trade as well as new guidance issued by Government. It also addresses a number of matters raised by those who have made representations, which are summarised at **Appendices B & D**. However, Cabinet may wish to amend the revised policy further prior to adoption. Members should be aware, however, that any substantive amendments to the current revision may require a further period of public consultation.

4.3 To reject the revised Hackney Carriage and Private Hire Licensing policy and retain the existing Policy.

This option is not recommended. The current policy has been in place since 2008 and is due for review. The revised Taxi Licensing Policy contains a large number of changes from the previous policy which improve the safety of the travelling public and also ensure fair and consistent treatment of licence holders.

5. **Resource Implications**

5.1 There are no resource implications.

6. **Corporate Implications**

6.1 Comment from the Finance Officer: Finance has been consulted and has no further comments to add (MC)

6.2 Comment from the Solicitor to the Council: The Senior Solicitor has been consulted during the preparation of this report and has no further comment to make.

6.3 Comment from the Equalities Officer: The Equality officer has been consulted during the development of this report and has no further comments to make other than to remind members that in discharging their responsibilities they are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>

7. **Appendices**

Appendix A	First Consultation letter and summary of changes from existing policy
Appendix B	Summary of responses and letters received to first consultation
Appendix C	Second consultation letter and summary of further revisions
Appendix D	Summary of responses and letter received to second consultation
Appendix E	Equality Impact Assessment (Provisional)
Appendix F	Revised Hackney Carriage & Private Hire Licensing Policy (With Changes)

8. **Background Papers**

DFT Best Practice Guidance
Existing Hackney Carriage & Private Hire Licensing Policy issued December 2008

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