

## REPORT TO CABINET

**30 August 2017**

<b>Subject:</b>	Review of Private Hire and Hackney Carriage Licensing Policy – Consultation Outcome and Implementation
<b>Presenting Cabinet Member:</b>	Councillor Elaine Costigan - Cabinet Member for Public Health and Protection
<b>Director:</b>	Director – Prevention and Protection – Stuart Lackenby
<b>Contribution towards Vision 2030:</b> 	
<b>Key Decision:</b>	Yes
<b>Forward Plan (28 day notice) Reference:</b>	SMBC 16135
<b>Cabinet Member Approval and Date:</b>	Councillor Elaine Costigan – 16.8.2017
<b>Director Approval:</b>	Stuart Lackenby – 11.8.2017
<b>Reason for Urgency:</b> <i>(if applicable please contact DSU for advice):</i>	Urgency provisions do not apply for this report.
<b>Exempt Information Ref:</b> <i>(if applicable please contact DSU for advice)</i>	There is no exempt information contained within this report.
<b>Ward Councillor (s) Consulted (if applicable):</b> <i>(Enter the names of all Ward Councillors who have been consulted).</i>	This is a Council wide initiative therefore there is no requirement to consult on individual wards.
<b>Scrutiny Consultation Considered?</b>	This issue has not been raised at Scrutiny
<b>Contact Officer(s):</b>	Gary Hodgetts – Licensing Manager Gary_Hodgetts@sandwell.gov.uk

## **DECISION RECOMMENDATIONS**

### **That Cabinet:**

1. Consider the key elements of feedback received through formal consultation and approve the Private Hire and Hackney Carriage Licensing Policy, as set out in Appendix A.
2. Approve the implementation of the Private Hire and Hackney Carriage Licensing Policy as set out in Appendix A from the 1 October 2017 in line with the implementation table as set out in Appendix B.
3. Approve the one-off funding of £106,134 to support the implementation of the proposed Disclosure and Barring Service DBS update approach as described in the policy.
4. Request a further report is provided to Cabinet in June 2018 to seek approval for the consultation on the future use of CCTV in licensed vehicles.
5. To authorise the Director responsible for Taxi Licensing, in consultation with the Cabinet Member, to make minor and administrative amendments to the policy as and when they arise, so to support the on-going improvement of the service to the public.

## **1 PURPOSE OF THE REPORT**

- 1.1 The Council undertook a review of its approach to the protection of public safety in connection with private hire and hackney carriage licensing (taxi licensing) in Sandwell following the public release of the findings of the Casey report into the inspection of the taxi licensing regime in Rotherham (and the links to child sexual exploitation).
- 1.2 The above review resulted in a proposed revision to Sandwell Council's approach to the licensing of private hire and hackney carriages (drivers and vehicles). This proposed change was subject to public consultation.
- 1.3 This report provides feedback from the public consultation and seeks Cabinet approval for the revised Private Hire and Hackney Carriage Licensing Policy, provided at Appendix A. To be implemented from 1 October 2017.

## **2 IMPLICATION FOR THE COUNCIL'S AMBITION**

- 2.1 The approval and implementation of the proposed Private Hire and Hackney Carriage Licensing Policy will improve the safety and the customer experience of local people wishing to use these services.
- 2.2 The proposed recommendations will also strengthen the council's ability to enforce the policy, respond more effectively to issues as they become identified and seek to develop new ways of keeping people safe that directly contribute to 'our communities feeling safe, more protected and confident in their homes and neighbourhoods'.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 On 22 March 2017 the Cabinet considered a report on the Review of the Private Hire and Hackney Carriage Policy in Sandwell (Key Decision No. SMBC 1606). The Cabinet resolved that the revised Private Hire and Hackney Carriage Policy be approved for consultation and that a further report be presented to Cabinet following the outcome of the consultation.
- 3.2 Consultation on the revised Private Hire and Hackney Carriage policy was undertaken from the 6 April 2017 until the 12 May 2017. The consultation was structured around;
  - 2609 Individual letters to all licensed Drivers and Operators outlining the proposed key changes to the Policy and how drivers and operators could respond.
  - Publication of the proposed policy on the Council's consultation webpage.
- 3.3 During the consultation period the proposed policy changes were also discussed and supported by;
  - The Safer Sandwell Partnership Board
  - The Sandwell Safeguarding Children's Board – Chairs group
  - The Sandwell Safeguarding Adult's Board
- 3.4 The consultation generated 210 responses. The responses are broken down as follows;
  - 205 responses from operators/drivers
  - 1 response from a CCTV operator
  - 1 response from an accident management company
  - 1 response from a member of the public
  - 2 responses from specialist licensing organisations, engaged by two local licensed operators

3.5 The comparison table at Appendix C shows the entirety of change between the policies with the final proposed policy document provided as Appendix A.

3.6 The following summary provides detail of the consultation feedback received for key elements of the proposed policy and the final proposed change.

- a) **Suitability test** – The council consulted upon an improved suitability test that drivers must pass before they can apply for a driver’s licence.

Consultation responses requested that information be made available online to enable prospective drivers to make an informed decision as to becoming a driver, based upon the licensing requirements and expectations.

If approved, information describing the revised suitability test will be made available through the council’s website.

- b) **Disability Awareness training** – The Council consulted upon a requirement for all new and existing drivers to undertake Disability Awareness training. This training would be included in the licence fee for existing drivers. There would be an additional charge to new applicants.

The consultation response suggested that the above training should be broadened to include Equality Awareness. The response also suggested that the cost of this new training should be included within the licence fee for existing and new applicants.

The appended policy (Appendix A) has been amended to include both equality and disability awareness training as this will be of benefit to local people. The cost of this new training will be included within the licence fee for existing and new applicants to remove any financial impact.

- c) **UK Driving licences** – The Council consulted upon the requirement that drivers must have held a full UK driving licence for at least two years to be eligible for a Private Hire or Hackney Carriage licence.

The consultation response suggested this to be discriminatory and that the policy should recognise relevant and transferable driving licence entitlement.

The appended policy has been amended to recognise relevant and transferable driving licence entitlement. Applicants must ensure that any existing entitlement to drive is transferred to a UK licence before making an application.

- d) **Disclosure and Barring Update Service (DBS)** – The Council consulted upon a requirement for all drivers to sign up to the update service. Criminal Records would then be checked at least every 4 months.

Consultation responses focussed on the lack of perceived proportionality to this approach in relation to other staff who work with vulnerable children and adults. A suggestion of an annual requirement was put forward with additional update checks being put in place where appropriate.

The appended policy has been amended to require all drivers to sign up to the DBS update service and for the update service to be checked on an annual basis by the taxi licensing service. In addition to the annual check, the update service will also be checked;

- Prior to driver submission to the Licensing Committee in relation to criminal convictions, complaints and breach of conduct
- When intelligence is received that suggests a driver is involved in criminal activity
- By determination of the Licensing Committee

To enable annual DBS update checks to be implemented there is a need to sign up all existing drivers to the update service. This will take around 9 months and will cost the council an estimated £106,134.

- e) **Incomplete applications** – The policy proposed that licensing applications must be completed within 12 months from the date of starting the process. In the event that an application has not been completed within 12 months then such applications will be withdrawn and any further application taken forward as new. Exceptional circumstances will however be considered on a case by case basis.

Feedback from the consultation asked that “in the event of an application being withdrawn will the driver receive a refund?”

The appended policy has been amended so that upon request the applicant will receive an appropriate refund of the licensing fee paid. No refund will however be provided for any third party cost incurred by the Council such as DBS costs.

- f) **DBS checks on owners of licensed vehicles** – The policy proposed to create a requirement for the owners of licensed vehicles to be DBS checked in the event that the owner was not either a licensed driver or operator.

Feedback has suggested that this requirement is aspirational and would face considerable challenges on implementation.

The appended policy has been amended to remove this requirement on the basis that robust checks and balances are already established within the other elements of the policy.

- g) **Vehicle licence condition: Vaping and E-cigarettes** – The policy and vehicle licence conditions advise drivers that it is illegal for drivers and passengers to smoke, at any time, in a licensed vehicle.

Feedback has suggested that the policy and licence conditions should be amended to also prevent vaping and the use of e-cigarettes in licensed vehicles.

The appended policy has been amended to also prohibit the use of these types of smoking devices as smoke generated can be a hazard to visibility and is potentially contrary to passenger and diver expectations.

- h) **Vehicle Roof Signs**- The policy proposals suggested the recall of all council provided vehicle roof signs and a requirement for these signs to be replaced by the Operators. This change would place responsibility for updates to the signs with the operators rather than the Council.

Feedback has suggested that vehicle roof signs should not be a requirement as they can mislead the public into thinking they are using a hackney carriage rather than a private hire vehicle. Feedback also suggested that the use of vehicle roof signs leads to increased use of fuel as the vehicle aerodynamics are affected.

The appended policy has been amended so that council vehicle roof signs will be recalled. Private Hire Operators will decide if they wish their drivers to use Operator supplied roof signs.

As a minimum private hire vehicles must display door signage clearly identifying the Operator's company name and telephone number.

- i) **Vehicle Glazing Policy – Tinted glass and blacked out windows.** The policy proposals required all rear passenger door windows and the rear windscreen of licensed vehicles to allow 70% of light to pass through.

Considerable feedback was received from the licensed trade on this subject. 195 drivers disagreed with the policy. A further respondent suggested that the requirement be reduced to 34% as this allows a degree of tint without obscuring the window.

The appended policy amendment has been removed and the existing policy of no aftermarket tinted glass or film has been reinstated as the original proposals may prohibit the purchase of higher specification vehicles and increase costs to drivers.

- j) **Determination of matters policy: Section 5 - Private Hire and Hackney Carriage Determinations of Matters Policy Guidelines (The Guidelines).** The proposed policy changes include the following: -

- A licence will not be granted if the applicant has serious convictions e.g. murder, manslaughter, sexual offences, supplying/dealing drugs.
- Tougher sanctions for drivers with violence or dishonesty offences.
- Recommended sanctions for new applicants will also be applied to existing licence holders to avoid an inconsistent approach to suitability of an applicant/licence holder.
- Existing licence holders with serious convictions that have previously been determined by Committee, or officers, or Court, whereupon if they were a new applicant would not be granted a licence, will be referred back to Committee, upon implementation of the policy, for their licence to be reviewed.
- As above, existing licence holders with convictions (not categorised as serious but contrary to the new policy) will be referred back to Committee, upon receipt of their application for the renewal of their licence.
- The Committee will consider each case on its merits.

Feedback from one operator has suggested that the policy is too complex. They do agree that the policy should prevent applicants/licence holders with certain violence and sexual offences from being granted a licence or should have their licence revoked.

153 drivers disagree with the policy proposal.

Having considered the consultation feedback it is recommended that the council continues with its original proposal with regard to the determination of matters as this will contribute to ensuring the suitability of individuals within the licensed trade. This will also improve the safety and customer experience of local people wishing to use these services.

- k) **CCTV** - A mandatory CCTV policy is not part of these proposals but is put forward as a future decision recommendation to Cabinet in June 2018 as part of this report.

CCTV acts as a deterrent to prevent offences being committed in vehicles. Where an alleged offence has been committed CCTV would help to identify the offender. CCTV can help protect drivers from malicious allegations and also help prevent the non-payment of fares.

CCTV is a complex issue and is not something that can be introduced without extensive consultation. Any policy proposals that the council may wish to implement must be justifiable and approved by the Information Commissioner prior to public consultation being commenced.

## 4 THE CURRENT POSITION

4.1 The consultation process highlighted a need for service improvement to support the implementation of the new policy. The improvements focus upon increasing the efficiency and effectiveness of the licensing service whilst also ensuring the policy is implemented and managed in a robust way.

4.2 This report includes:

- Feedback from the public consultation and recommendations for the approval of the revised Private Hire and Hackney Carriage Licensing Policy provided at Appendix A.

- Evidence that where appropriate and legal to do so, and in the interest of improved public safety, the Council has responded to feedback provided.
- Proposes future consultation to strengthen public safety further through the use of CCTV in vehicles, to prevent offences being committed against all passengers, as well as securing the welfare and livelihood of the licensed driver.

## **5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

5.1 Full detail of consultation undertaken is included in section 3.0 of this report.

## **6 ALTERNATIVE OPTIONS**

6.1 The proposals and recommendations contained within this report aim to improve the safety of Sandwell communities.

6.2 All recommended changes to the proposed Private Hire and Hackney Carriage Licensing Policy has been considered to provide the most effective option that will improve the safety and customer experience for local people.

## **7 STRATEGIC RESOURCE IMPLICATIONS**

7.1 The Corporate Risk Management Strategy has been complied with to identify and assess the significant risks associated with this decision. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. The assessment has determined that there are no significant risks arising from the decisions being sought.

7.2 If the recommended policy changes are approved, the cost of providing Equality and Disability Awareness Training to new and existing Private Hire and Hackney Carriage drivers will be met by the Taxi Licensing Budget. The cost of providing the Child Sexual Exploitation and Safeguarding Training will be delivered in-house.

7.3 If approved, the application of the DBS update approach will generate costs of £106,134; the DBS/update renewal for all 1,862 drivers at a cost of £44 each for the DBS check and £13 for the update service. This is a one-off cost to the council with all new and future DBS requirements funded by applicants or drivers. This expenditure will be funded from the budgets currently allocated to the Prevention and Protection directorate.

## 8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 All proposal and recommendations contained within the report comply with legislation as set out within the Local Government (Miscellaneous Provisions) Act 1976.
- 8.2 This report and all Appendices to this report have been reviewed by qualified officers located within the Councils Legal Service.
- 8.3 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states:-
- (1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:  
Provided that a district council shall not grant a licence—
- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
  - (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.
- (2) Without prejudice to the generality of the foregoing subsection—
- (a) a district council may require an applicant for a driver's licence in respect of a hackney carriage or a private hire vehicle—
    - (i) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or a private hire vehicle; and
    - (ii) whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the district council as to his physical fitness to be the driver of a hackney carriage or a private hire vehicle;

- (3) If any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section, he shall be guilty of an offence.

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—
- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
  - (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—
- (a) that he has since the grant of the licence—
    - (i) been convicted of an offence involving dishonesty, indecency or violence; or
    - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
  - (b) any other reasonable cause.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 An Equality Impact Assessment has been undertaken as part of the preparation of this report in line with council policy. The final content of the assessment has been reviewed by an appropriately qualified council officer.
- 9.2 The results of the assessment has identified that the proposals and recommendations contained in this report will not have an adverse impact on any group with protected characteristics.
- 9.3 The results of the assessment has identified that the proposals and recommendations contained in this report will have a positive impact on seven of the nine groups with protected characteristics, in particular, children and people with a disability.

9.4 The proposals are both reasonable and a proportionate response to the primary objective of protecting the public and improving the service they receive; as well as making sure that drivers are equipped with the relevant skills to safeguard vulnerable customers and protect themselves.

## 10 **DATA PROTECTION IMPACT ASSESSMENT**

10.1 The proposed Private Hire and Hackney Carriage Licensing Policy, if approved, will be a public document and available to download from the council's website. All other data will be stored and utilised in compliance with current legislation and council policy.

## 11 **CRIME AND DISORDER AND RISK**

11.1 The proposed Private Hire and Hackney Carriage Licensing Policy, if approved, seeks to reduce instances of crime and disorder that may impact on all occupants (passengers and driver) of Sandwell licensed Hackney Carriages and Private Hire Vehicles.

## 12 **SUSTAINABILITY OF PROPOSALS**

12.1 The report includes a 9-month implementation table provided at Appendix B. If approved, the implementation of proposed recommendations will commence on the 1 October 2017.

12.2 Changes to the policy will be phased over a period of 9 months to ensure that they are implemented in an achievable and sustainable way and make the best use of available resources.

## 13 **HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

13.1 The recommendations and proposals contained within this report, if approved will have positive implications on the health and wellbeing and local communities that will result from:

- increasing the frequency of disclosure and barring checks on drivers
- adding vaping and e-cigarettes to the existing no smoking policy in vehicles
- expanding the delivery of the driver training programme to include disability awareness, the Equality Act 2010, child sexual exploitation and safeguarding

## 14 **IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

14.1 This report does not have any impact on any council managed property or land

## 15 **CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

15.1 This report makes five decision recommendations for approval by Cabinet in respect of proposed changes to the Private Hire and Hackney Carriage Licensing Policy. These recommendations have been proposed following on from the consideration of feedback from public consultation.

15.2 A significant amount of feedback was received from the private hire and hackney carriage trade (operators and drivers) during the consultation period. The council has carefully considered all feedback and this report demonstrates that where practicable, appropriate and legal to do so, it has positively responded to feedback provided.

15.3 To support the Cabinet to make a decision on the recommendations, additional information has been provided and is appended to this report, being:

- The proposed Private Hire and Hackney Carriage Licensing Policy
- Private Hire and Hackney Carriage Licensing Policy Implementation Timetable
- Private Hire and Hackney Carriage Licensing Policy Change Comparison Table

15.4 The approval and implementation of the proposed Private Hire and Hackney Carriage Licensing Policy will improve the safety and customer experience of local people wishing to use these services.

15.5 The proposed recommendations will also strengthen the council's ability to enforce the policy, respond more effectively to issues as they become identified and seek to develop new ways of keeping people safe that directly contribute to our communities feeling safe, more protected and confident in their homes and neighbourhoods.

## 16 **BACKGROUND PAPERS**

### 16.1 **Source Documents:**

- The Department of Transport Circular 2/92 and Home Office Circular 13/92

- Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance - March 2010
- Professor Alexis Jay's Independent Inquiry into Child Sexual Exploitation (CSE) in Rotherham was commissioned by Rotherham Metropolitan Borough Council in October 2013 and published in August 2014
- Report of Inspection of Rotherham Metropolitan Borough Council:
- Louise Casey – February 2015
- Rotherham Metropolitan Borough Council's Private Hire and Hackney Carriage Licensing Policy.
- Local Government Association (LGA) Guidance on Convictions Policy.

## 17 **APPENDICES:**

- A - Private Hire and Hackney Carriage Licensing Policy
- B - Private Hire and Hackney Carriage Licensing Policy Implementation Timetable
- C - Private Hire and Hackney Carriage Licensing Policy Change Comparison Table

**Stuart Lackenby**  
**Director – Prevention and Protection**