

For publication

Hackney Carriage and Private Hire Licensing Policy - Policy Amendments (A410)

Meeting: Appeals and Regulatory Committee

Date: 25 November 2020

Cabinet portfolio: Health and Wellbeing

Report by: Licensing Manager

For publication

1 PURPOSE OF REPORT

1.1 To propose amendments to the Hackney Carriage and Private Hire Licensing Policy.

2.0 RECOMMENDATIONS

2.1 The recommendation on signage exemption is approved with immediate effect.

2.2 The remaining policy amendments are approved for a suitable period of consultation.

3.0 REASON FOR RECOMMENDATIONS

3.1 The amendments will enhance public safety.

4.0 BACKGROUND

- 4.1 The proposed amendments fall into three categories:
- Those arising from the recent government publication 'Statutory Taxi and Private Hire Vehicle Standards';
 - Those required in the course of normal policy revision; and
 - A request for an exemption on vehicle signage.
- 4.2 In July 2020 the government published its document Statutory Taxi and Private Hire Vehicle Standards, available to view in full via [this link](#).
- 4.3 The document is issued by virtue of the Policing and Crime Act 2017 and requires that licensing authorities 'have regard to' the document when exercising their licensing functions.
- 4.4 This guidance adds to previous guidance issued in 2010 and recommends that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to:
- Polices on convictions.
 - A 'fit and proper' test.
 - Licence conditions, and
 - Vehicle standards.
- 4.5 Members will be aware the council already has such a document, but some provisions may require updating.
- 4.6 The standards document requires all licensing authorities to publish their consideration of the measures and the policies and delivery plans that stem from them.
- 4.7 The council can depart from the standards but should provide a reason for doing so.

It is fair to say that the council is at one with most of this standards document, but there are some areas where we can enhance our protective measures and some where we are at variance with the publication.

- 4.7 A full list of recommendations and Chesterfield's response is outlined at Appendix A.
- 4.8 Proposals from the standards document.
- 4.9 Disclosure and Barring Service
- 4.10 Chesterfield taxi and private hire drivers are already checked to an enhanced level that includes barred lists for both children and vulnerable adults and utilise the update service. The standards document recommends that, in addition, standard DBS certificates are required from:
 - 4.11 Private Hire Operators; at present, operators must obtain a record of their convictions.
 - 4.12 Proprietors, or owners, of both private hire and hackney vehicles; at present no check is carried out.
 - 4.13 Private Hire dispatchers, although the certificate will only be viewed by their operator who must certify to the council that it is acceptable; at present no check is carried out.
 - 4.14 These proposals should be accepted, but as they will be a major change for private hire operators and vehicle proprietors a six-month period of grace should be granted to allow smooth implementation.
 - 4.15 Self-reporting
 - 4.16 Throughout the council's policy there are requirements for licence holders to self-report if they are subject to, for example an investigation, been arrested, convicted of a crime etc. The timescale for reporting has been harmonised throughout the policy to read 'without delay and in any case within 24 hours'

throughout. This exceeds the suggestion in the standards document.

4.17 Safeguarding training

4.18 All licensed drivers and operators must attend an awareness session on child sexual abuse and exploitation (CSAE) before they are issued with a licence, that has been council policy since 2016. An additional requirement is for exiting licence holders to demonstrate an acceptable level of CSAE awareness before their application can be renewed. This will most likely be in the form of a handwritten test administered at renewal.

4.19 Convictions

4.20 The council complies with the requirements to assess individuals background outlined at paragraph 5.15 of the standards document, that is to assess each case on its merits but take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.

4.21 The council also complies with the recommendation later in the same paragraph (5.15) to have a clear policy for the consideration of criminal records.

4.22 The standards document does not differentiate between levels of offending, for example a person with a caution for common assault would be disqualified from holding or obtaining a drivers' licence for the same period as a person with a conviction for grievous bodily harm. The annex on the [Assessment of Previous Convictions](#) (page 35 of the standards document) outlines their proposals in full.

4.23 The authors of the document have been asked about the broad approach to convictions; their response was that they do not itemise individual offences for fear of being out of date in the event of new legislation. In the authors view, the wide

parameters of the section on convictions enables members to make the judgement on the individual case.

- 4.24 Section 4 of the council's policy goes into some detail on the consideration of convictions through five tables on dishonesty, violence, drugs, indecency and licensing offences. This section outlines to officers the limits of delegated authority, and the first four tables all include the caveat that 'any offence similar to those above to be assessed at the closest match'.
- 4.25 The current policy is seen as reasonable, proportionate and lawful and has enabled several legal challenges to be successfully defended. Officers take a robust view of both convictions and investigations and if they have any doubts, they consult the council's legal team and refer to committee.
- 4.26 For these reasons no change is proposed to the council's conviction policy.
- 4.27 Joint authorisation of enforcement officer
- 4.28 As recommended in the document (page 33), we are in the process of obtaining joint authorisations with North East and Bolsover district Councils.
- 4.29 CCTV consultation
- 4.30 All licensing authorities are advised to commence a consultation to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking account potential privacy issues.
- 4.31 This recommendation is accepted, the results of the consultation would be reported back to the committee.
- 4.32 Passenger carrying vehicles (PCV)
- 4.33 Private hire operators can operate vehicles with more than 8 passenger seats through a system of regulation overseen by

the area traffic commissioners. PCV licensed drivers are subject to different checks to taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers.

4.34 Because of the different check levels, it is recommended that private hire operators be prevented from substituting a PCV for a private hire vehicle without the informed consent of the booker.

4.35 Other necessary amendments

4.36 Failing to stop after an accident has been reclassified by the DVSA as a more serious motoring offence. To reflect this, it should be moved from appendix 2 (minor offences) to appendix 3 (major offences) in section 4 of the policy.

4.37 Offence codes in both appendix 2 and 3 of section 4 will be updated with the revised codes.

4.38 At present, under paragraph 4.2 Major Road Traffic Offences (appendix 3), if an applicant has more than one conviction for a major offence, or one major conviction with more than 9 DVLA points, or one major conviction with more than 9 DVLA points in total on the licence the application results in a referral to committee. This is seen as disproportionate.

4.39 The proposed amendment would add the words 'within the last ten years' to paragraph 4.2 of the policy, thereby bringing it into in line with other tables in the policy.

4.40 Exemption from signage

4.41 The council's taxi and private hire licensing policy limits the signage allowed on licensed vehicles, but the committee may authorise the display of signs in support of specific good causes in a manner and duration specified by them.

4.42 The Covid-19 pandemic has posed challenges across the board, but particularly for those in direct contact with the public.

Recent changes in the law make the wearing of face coverings mandatory for passengers in a taxi or private hire vehicle.

- 4.43 It is therefore requested that the sign shown at Appendix B be authorised for display in licensed vehicles for as long as the requirement to wear one remains law. One sign per vehicle would be permitted.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 A full equalities impact assessment has not been completed but the amendments will have a positive impact on equalities.

6 RISK MANAGEMENT

- 6.1 A full risk management assessment has not been completed but these measures will all enhance public safety.

7.0 RECOMMENDATIONS

- 7.1 The request for an exemption for a face coverings sign is approved with immediate effect.
- 7.2 All other amendments to the Taxi Consultative Committee and the Hackney Carriage and Private Hire Licensing Policy are approved for a suitable period of consultation.

More information about this report is available from Trevor Durham - Licensing Manager on 01246 345203 or trevor.durham@chesterfield.gov.uk

Appendix A

Recommendation within 'Statutory Taxi & Private Hire Vehicle Standards	Chesterfield Borough Council response
<p>Policy review (3.4) Licensing authorities should review their licensing policies every 5 years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.</p>	<p>On average the CBC policy is reviewed every year.</p>
<p>Whistleblowing (3.8) Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.</p>	<p>The council has an up to date whistleblowing policy.</p>
<p>Consultation (3.13) Licensing authorities should engage in meaningful consultation with trade bodies, other authorities and professional bodies to identify any concerns that might arise from changes in policy.</p>	<p>Each proposed change of policy is subject to wide-ranging consultation as described.</p>
<p>Review licences (3.14) Any changes in licensing requirements should be followed by a review of the licences already issued. This does not necessarily have to take place straight away, but can be at renewal or after a reasonable period of time.</p>	<p>This approach is already taken.</p>

<p>DBS – police (4.11) Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.</p>	<p>The procedures are in place and partnerships exist.</p>
<p>DBS – referral to police (4.14) A decision to revoke or refuse a licence as the individual is thought to present a risk of harm to a child or vulnerable adult should be referred to the DBS.</p>	<p>This is considered in the unusual circumstances when the police are not already involved.</p>
<p>Feedback to the police (4.17) Action taken by the licensing authority as a result of information received from the police should be fed back to the police.</p>	<p>Complied with.</p>
<p>Applicants to disclose (4.20) Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, suspended or revoked by any other licensing authority.</p>	<p>These requirements already form part of our application process.</p>
<p>NR3 database (4.21) Tools such as national anti-fraud network (NAFN) register of refusals and revocations should be used by licensing authorities to share information on a more consistent basis.</p>	<p>Has been council policy since 2018</p>

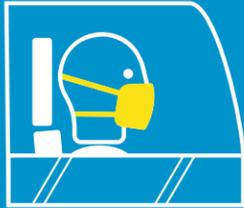
<p>Complaints (4.29) All licensing authorities should have a robust system for recording complaints, including trends across all licensees as well as complaints against individuals.</p>	<p>A system already exists but will be enhanced when the authority adopts the new 'Salesforce' software that is under development.</p>
<p>Train decision-makers (5.3) All individuals that determine whether a licence is issued should be required to undertake sufficient training.</p>	<p>This is delivered by one of the council's solicitors.</p>
<p>Immediate revocation (5.12) All licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.</p>	<p>The current policy delegates this to officers in certain circumstances, in consultation with the committee chair.</p>
<p>Fit and proper (5.12) Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?</p>	<p>The council's assessment of 'fit and proper' more than adequately assesses this requirement.</p>
<p>Driver on barred lists (DBS) (6.3) In the interest of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.</p>	<p>This is catered for in section 4 of the council's policy where we consider convictions etc.</p>
<p>Safeguarding training (6.6) All licensing authorities should provide safeguarding advice and guidance to the trade and should require licensed drivers</p>	<p>All drivers have been trained and new applicants must complete training before they are licensed. An amendment to</p>

to undertake safeguarding training.	policy introduces refreshed training at licence renewal.
Language proficiency (6.15) An authorities test of a drivers proficiency should cover both oral and written English language skills.	Already complied with.
DBS check for vehicle proprietors (7.2) and private hire dispatchers.	This is one of the amendments under consideration today, applicants would sign up to the update service.
CCTV consultation (7.9) 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 adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking account potential privacy issues.	Such a consultation is one of this reports recommendations.
DBS for private hire operators (8.2) Licensing authorities should request a basic DBS disclosure from the holders of such licences, to be checked annually.	This is one of the amendments under consideration today, applicants would sign up to the update service
DBS for booking & dispatch staff (8.8) Licensing authorities should, as a condition of granting a private hire operators licence, require a register of all staff that will take bookings is kept. Operators should be required to evidence	This is one of the proposed policy amendments under consideration today.

<p>they have had sight of a basic DBS for all those listed on the register and that the findings are compatible with their employment policy.</p>	
<p>Record keeping (8.13) A list of required information is outlined.</p>	<p>This is already policy</p>
<p>Passenger carrying vehicles (PCV) (8.16) Private hire operators must not substitute a PCV for a private hire vehicle without the informed consent of the booker.</p>	<p>This is one of the proposed policy amendments under consideration today.</p>
<p>Previous convictions (page 35) Authorities must consider each case on its merits and applicants/licensees are entitled to a fair and impartial consideration of their application. The annex goes into some detail on convictions.</p>	<p>This is already adhered to, although CBC takes a different stance on proportionality. This is gone into in some depth within this report.</p>



CHESTERFIELD
BOROUGH COUNCIL



**FACE COVERINGS
MUST BE WORN
IN THIS VEHICLE**

STAY ALERT ► CONTROL THE VIRUS ► SAVE LIVES