

**AGENDA ITEM NO. 4**

**LICENSING COMMITTEE**

<b>Date</b>	<b>19 APRIL 2016</b>
<b>Title</b>	<b>REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AND CONSIDERATION OF RESPONSES RECEIVED DURING PUBLIC CONSULTATION.</b>

**1) PURPOSE/SUMMARY**

To consider responses received following consultation on the draft Hackney Carriage and Private Hire licensing policy and to agree any revisions to the draft policy document.

**2. KEY ISSUES**

- Public consultation took place from 10 February 2016 to 9 March 2016 and was then extended further until the 7 April 2016 to allow stakeholders to respond.
- Two meetings with the taxi trade took place within the consultation period on 24 February 2016 and the 2 March 2016.
- The current taxi and private hire licensing policy was approved by Full Council on 15 December 2011.
- Changes under the Deregulation Act 2015 and the Immigration Bill 2015 prompt a review of our current policy.
- The LGA encourages best practice in the adoption of a formal statement of policy for relevant convictions
- It is best practice to publish a policy which sets out our general approach to regulation and enforcement activities in relation to taxi and private hire services to maintain a consistent approach, build public confidence and assist in supporting business.

**3. RECOMMENDATION TO LICENSING COMMITTEE**

1. That Licensing Committee members:
  - 1) Consider the consultation feedback received regarding the draft Hackney Carriage and Private Hire Licensing Policy.
  - 2) Agree any amendments to the draft Policy.
  - 3) Recommend to Council that:
    - The Hackney Carriage and Private Hire Licensing Policy is adopted

<b>Wards Affected</b>	All
<b>Forward Plan Reference No. (if applicable)</b>	Not applicable
<b>Portfolio Holder(s)</b>	Councillor David Oliver, member with responsibilities for Licensing
<b>Report Originator</b>	Kim Winterton, Licensing Regulatory Manager, tel: 01354 622542, email: <a href="mailto:kwinterton@fenland.gov.uk">kwinterton@fenland.gov.uk</a>

<b>Contact Officer(s)</b>	
<b>Background Papers</b>	Part II of the Local Government (Miscellaneous Provisions) Act 1976 Town Police Clauses Act 1847 Department of Transport – Taxi and Private Hire Vehicle Licensing : Best Practice Guidance LGA Taxi and PHV licensing Councillors' Handbook

# 1 BACKGROUND

1.1 The principal legislation associated with Hackney Carriage and Private Hire licensing and associated matters is contained within the:

- Town Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985

Whilst the law provides a framework for licensing and sets out in general terms the standards to be met before a licence may be approved, it is not prescriptive and allows local authorities to develop local arrangements and to attach conditions to licences which are considered “reasonably necessary”.

1.2 The licences administered by the Council under the above legislation are:

- Hackney Carriage Proprietors Licence
- Hackney Carriage Drivers Licence
- Private Hire Vehicle Proprietors Licence
- Private Hire Drivers Licence
- Private Hire Operators Licence.

1.3 The current policy was adopted by the Council in 2011 and the proposed revised Statement of Licensing Policy is at **Appendix A** to this report.

1.4 Public consultation took place from 10 February 2016 to 9 March 2016 and was then extended further until the 7 April 2016 to allow stakeholders to respond. Appendix B is a copy of the public notice and **Appendix C** a copy of the letter sent out to all licence holders.

1.5 During the consultation period, officers met with members of the taxi trade on two occasions, the 24 February 2016 and the 2 March 2016. The discussions included the following points:

Policy No.	Proposal	General Comment
3.6	Dual Drivers Licence (Third type of licence offered)	To add resilience to the trade – those present had no concern or comment to make.
3.11	Wheelchair Accessible Vehicles (WAV) – all Hackney Carriage vehicles to be WAV after a specific licence plate number thereby ensuring a mix of saloon and WAV types.	To facilitate provision for service users – discussion ensued regarding cost of vehicles and insurance, the need for saloon vehicles as part of the Hackney Carriage fleet within Fenland, those who prefer to drive a saloon vehicle. Options discussed and further information on WAVs is outlined in detail at 1.6 of this report below.
3.14	Convictions Policy – new document to be added to advise Licensing committee members sitting on licensing panel.	To provide for an updated and informed decision making tool for members – those present had no concern or comment to make.
4.8	Right to Work Checks – new legislative requirement.	To ensure those applying for licences have a right to work in this country –those present had no concern or comment to make.
4.20	Knowledge Test for new drivers to include numeracy test – skills required in the course of work as a licensed driver.	Identifying required skill set – those present had no concern or comment to make.

5.26	Vehicles over 5 years will require 6 monthly vehicle checks – wear and tear on vehicles addressed.	To identify and correct issues by early intervention process – discussion ensued around the same process used in our neighbouring council areas i.e. choice of garage to attend, MOT available at the same time, significantly reduced cost compared to Fenland.
5.38	ID tags on fire extinguisher equipment – to prevent exchanges between vehicles for test purposes only.	Problem issue identified – those present had no concern or comment to make.
5.63	Internal Licence Plates for display on windscreen – to assist passengers with licence information.	To provide passenger information on licensed vehicle – those present had no concern or comment to make.
6.30	Responsibilities for Meter including calibration – to reiterate responsibilities of vehicle proprietors.	To provide information and guidance for vehicle proprietors – those present understood the reasoning behind the inclusion of this item into the proposed policy but felt it was the responsibility of the Council to ensure the upkeep of the meters.
	Addition of the Special event vehicle policy to the main policy document.	Those present had no concern or comment to make.
9.20	Drivers to notify of convictions/summons/CCJ – The council require all information available to order to determine licence applications.	To allow for an informed decision on licence applications – those present at the meeting were unhappy with this proposal and felt the council should not have access to this information.
	Penalty points scheme	to provide a light touch approach to compliance and enforcement – those present at the meeting did have some concerns regarding the issuing of points. It was explained that there is an appeal process built into the system whereby a driver may challenge the reasoning behind the points given. Individuals were reminded that they could make a written response to the proposals during the consultation period.
	Safeguarding Training	To provide information, guidance and advice on an emotive, sensitive and serious topic that is impacting the trade across the country. – those present asked questions about cost, time, whether the training was mandatory.

- 1.6 Individual respondents have also highlighted a number of other matters however, two documents submitted were unsigned by the authors have not been included. All other responses have been made available for the committee to consider. See a summary of responses at **Appendix D** and copy responses at **Appendix E** to this report.
- 1.7 The proposal regarding Hackney Carriage Wheelchair Accessible Vehicles (WAVS) has been put forward to assist in identifying the best way to provide a reasonable proportion of WAVS within the Hackney Carriage fleet of vehicles in Fenland.

Fenland District Council currently does not have a policy on wheelchair accessible vehicles and has allowed market forces to determine the supply of these types of vehicles.

In the 2011 Census the District's population was 95,262 with approximately 1,895 wheelchair users. Therefore, almost 2% of Fenland's population currently use a wheelchair.

The Equality Act 2010 requires the providers of public transport services including the proprietors and operators of taxis and private hire vehicles, to ensure people with disabilities are not discriminated against (or treated less favourably). The Equality Act 2010 amended the Disability Discrimination Act 1995 (DDA) and lifted the exemption in part 3 of that Act for operators of transport vehicles. Therefore taxi drivers, proprietors and operators now have a duty to ensure people with disabilities are not discriminated against or treated less favourably. Licensing authorities must therefore review any practices policies and procedures that make it impossible or unreasonably difficult for a disabled person to use their services.

The Department for transport published its 'Taxi & Private Hire Vehicle Licensing: Best Practice Guidance' in March 2010 and whilst it mentioned training for drivers and other matters, it did not address the question of the type of vehicle to be licensed and, in particular, whether local authorities should restrict licensed vehicles to the wheelchair accessible type.

Fenland District Council currently licenses 121 Hackney Carriage Vehicles of which 115 are saloon/people-carrier type vehicles (carrying 4-6 passengers), and 6 larger vehicles (carrying 7-8 passengers) only 1 of these larger vehicles is a purpose built wheelchair accessible vehicle. This represents 0.8% of Fenland's hackney carriage fleet as being accessible to wheelchair users. This is in contrast to Fenland's Private Hire vehicle fleet of which 16 (34%) are large enough to be wheelchair accessible (7-8 passengers) out of 47 that are currently licensed.

1.8 In discussion with the taxi trade the following options have been suggested for members to consider:

a) Leaving market forces to determine the supply of wheelchair accessible hackney carriage vehicles.

This option if agreed would require a suitable review time period to determine its effectiveness.

b) Any new application for a hackney carriage vehicle licence must be submitted with a vehicle that is wheelchair accessible. In regard to renewal applications the applicant may continue to licence saloon/people carrier type vehicles at the time of vehicle replacement.

This option would result in any new applications being WAV. For the existing trade the impact would be less as they will be able to renew for saloon/people-carrier vehicles and of the options presented to the trade this was the most popular.

c) A hackney carriage vehicle must be replaced by a WAV regardless of whether the application is for a new licence or a renewal.

Whilst this option would significantly impact on the supply of WAVs, it would mean significant cost increases for current licence holders and may be viewed as unfair and be legally challenged.

d) Offer a fee discount to applicants who licence wheelchair accessible hackney carriages.

It is not clear as to whether the law would allow this option as Council's can only recover reasonable costs. To charge one licence holder more than another, when the administration and enforcement costs to the Council remain the same, may be seen as unfair and be legally challenged.

- 1.9 The most desirable outcome would be to eventually produce a mixed fleet of saloons, people carriers and WAVs which would provide the best choice for all different social groups living in Fenland.
- 1.10 It should be noted that if the Council require Fenland's hackney carriage fleet to be wheelchair accessible then all drivers/proprietors of wheelchair accessible hackney carriages should attend an approved training course on how to provide a service for passengers with disabilities and provide proof to the Council that the course has been completed. The course should be completed within the first 2 months of a WAV being licensed.

## **2 FINANCIAL IMPLICATIONS**

- 2.1 There are no financial implications for the council however, there will be additional financial costs for the vehicle proprietors, depending on which option is approved under the proposal 3.11 of the draft policy for wheelchair accessible vehicles.

## **3 LEGAL IMPLICATIONS**

- 3.1 The Council is the licensing authority for the purposes of taxi and private hire licensing under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1867.
- 3.2 Neither Act requires the Council to prepare a taxi and private hire licensing policy. However, it is best practice to prepare a policy which contains the principles that it proposes to apply in exercising its functions.
- 3.3 Not updating the policy will mean that current best practice is not reflected, possibly putting the public at risk and potentially creating disharmony within the trade through inconsistent decisions.

## **4 COMMUNITY**

- 4.1 The overall aim of the policy is to provide a system of local control which is intended to protect public safety and ensure there is accessibility for all users of taxis and private hire vehicles.

## **5 CONCLUSION**

- 5.1 That Licensing Committee members:
  - Consider the consultation feedback received regarding the draft Hackney Carriage and Private Hire Licensing Policy.
  - Agree any amendments to the draft Policy.
- 5.2 Recommend to Council that:
  - The Hackney Carriage and Private Hire Licensing Policy is adopted