

Title of report: Taxi and private hire policy 2022 – 2027

Meeting: Council

Meeting date: Friday 9 December 2022

**Report by: Cabinet Member housing, regulatory services and
community**

Classification

Open

Decision type

This is a non-executive decision

Wards affected

(All Wards)

Purpose and summary

To approve the reviewed and amended Taxi and Private Hire Policy 2022 - 2027. The purpose of this policy is to set out the expectations of Herefordshire Council as the licensing authority in relation to matters connected to the taxi and private hire trade.

Recommendation(s)

That:

- a) The draft policy be approved; and**
- b) That the implementation date be two calendar months from the date of this decision to allow time for trade compliance**
- c) that authority be delegated to officers as specified in the licensing decision making process appended to this report at Appendix 3 for administrative, operational decisions and minor annual reviews or corrections to the policy; and that support be given to recruit additional resource, to support the additional workload and compliance requirements of the guidance**
- d) to support the additional resource required to carry out new statutory functions, one HC7 post.**

Alternative options

1. Not to approve the revised policy. This is not recommended as the changes proposed ensure that the policy is compliant with current statutory guidance and constitutional requirements. Failure to have in place an updated policy would leave the Licensing Authority with an outdated and non-compliant policy to guide the decision making process, and would increase the risk of delayed or inconsistent decisions being taken.
2. To make further changes to the policy. Other than any minor corrections, this is not recommended as the draft policy has been created by a legal specialist following consultation with taxi trade members and then meetings with both the local and national trade associations thereafter. Due consideration has therefore been given to all the comments received and adjustments made if appropriate and permitted within the legislative provisions and statutory guidance. The external legal specialist reviewer had full sight of all the consultation responses in order to consider them fully whilst drafting the policy.

Key considerations

3. The review of the existing policy is required due to a number of changes and recommendations contained within new government statutory guidance issued in July 2020.
4. The policy was drafted by an external legal specialist as part of the taxi licensing review. The external legal specialist, is the author of the 'Button on Taxi' book and is a specialist training provider for all local authorities and councillors on taxi and licensing matters. The policy and conditions can be found at Appendices 1-7. Appendix 8 identifies the required specification for the CCTV systems.
5. The council has 900 licence holders including Hackney Carriage Proprietors, Private Hire vehicle proprietors and Dual Driver and Operators. The licenses are renewed on either an annual, three or five yearly basis depending on the licence type. The policy and conditions are used by the trade and the licensing authority and ensures that the requirements of the licence are met. The review of this policy was made following the implementation of the statutory guidance issued by Department for Transport in July 2020. The revised policy is provided at Appendix 1.
6. The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals from harm when using these services. The Department of Transport (DfT) has therefore stated that it expects the recommendations made in the guidance to be implemented unless there is a compelling local reason not to.
7. The 2020 statutory guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the DfT's best practice guidance was issued. This includes extensive advice on checking the suitability of individuals and operators to be licensed. The standards in the 2020 guidance replace relevant sections of the best practice guidance issued by the Department of Transport in 2010.
8. The proposed inclusions and amendments to the policy are necessary to fulfil the responsibility the council has for demonstrating that they have taken into account the new guidance. All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged

having regard to the need to safeguard and promote the welfare of children and vulnerable persons.

9. If approved, the policy will be uploaded to the council's web-site and e-mail notification will be sent to licence holders regarding the amended policy. Following the amendments made by the officers and meetings with the trade after the external legal specialist drafted the original version, the revised policy is not expected to have any major impact on the trade and reasonable time will be allowed for existing licence holders to achieve compliance.

Community impact

10. This policy further enhances the licensing authority's ability to carry out suitability tests and ensures that all licence holders are informed about their safeguarding responsibilities. In addition it offers the opportunity to share information regarding issues surrounding child sexual exploitation, modern slavery and illicit trade practices with other authorities as part of the government's new driver revocation and refusal national register (NR3) scheme, which facilitates local authorities legitimately sharing intelligence.
11. By exercising the functions correctly in respect of the legislation and guidance related to the taxi and private hire trade, an appropriate balance can be demonstrated between public safety and the safeguarding requirements of the council with the support of legitimate business.

Environmental Impact

12. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
13. The policy includes consideration for direct environmental impacts, such as encouraging as many different fuel types as possible, including small two seat electric and hybrid vehicles.
14. The policy has been designed with no photographs or colour shading content which if printed by external users has less wastage. In addition the document is available and only provided electronically via the Council's web-site or via an e-mail link.
15. The Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 commit the council to providing environmental data to the Secretary of State who must use the data to create a centralised database.
16. Future proposals will be made to carry out a research project which will research any areas required to be included in any framework for a Clean Air Zone or other electrification of taxi and private hire vehicle projects.

Equality duty

17. The requirements of this policy are relevant to all applicants and dual drivers, and ensures fair enforcement and administration of all new and existing licence holders.

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

18. The council considers the inclusions and amendments to the policy are necessary to fulfil the legal responsibility it has for the safeguarding of children and vulnerable persons, and demonstrates that due consideration has been given to the new guidance. Many of these vulnerable individuals will share a protected characteristic. The inclusions are made to improve safety standards and demonstrate how the council is being proactive in fulfilling its equality duty.

Resource implications

19. There is a requirement that licensing is cost neutral to the council, so a full review of taxi and private hire fees will be undertaken. The implications of administering the new recommendations will undoubtedly increase the resource needed to achieve compliance. This is particularly relevant in the case of data sharing with other authorities on the NR3 system updates, CCTV work as a 'Responsible Authority', referrals shortly to be made to a new licensing sub-committee and costs associated with the DBS life system. Therefore, any costs associated with the above will be calculated in the review of fees and the inclusion of an additional resource to fulfil these new duties.
20. The request for a new HC7 post will be funded in this financial year and is cost neutral as follows:-

Cost of new post 9 th January – 31 st March 2023	£7,897
Savings from vacant posts 21529 vacant while recruiting 1.7.22 – 22.8.22	£4,308
Savings from vacant posts 22375 22.8.22 – 10.10.22	£3,849

Legal implications

21. The council is required by law to license the operation of taxis (hackney carriages) and private hire vehicles. The principal consideration in licensing taxis and private hire vehicles should be the safety and convenience of those travelling in such licensed vehicles. The proposed amendments are based on legislation and updated guidance and therefore reflect this need. Sections 47, 48, 51 and 55 of the Local Government (Miscellaneous Provisions) Act 1976 permits local authorities to place conditions on licensed taxis, licensed private hire vehicles, licensed drivers and licensed operators. The changes to the decision making process from Officer Panel to a new Taxi Sub-Committee will require a change to the Council's Scheme of Delegation which will be dealt with as a separate matter. The Licensing decision making functions can be found at Appendix 11.
22. As stated above, the policy has been drafted by an external solicitor who specialises in taxi licensing and therefore, Legal Services are content that the legislation quoted within the policy is correct.

Risk management

23. The proposed policy will offer greater protection for the most vulnerable persons in our community whilst they are travelling within a council licensed vehicle.
24. The reputation of the council is better demonstrated and protected by the adoption of this revised policy, which mitigates the risk associated with poor control and regulation of the licensed trade and non-compliance with the new statutory guidance.

Consultees

25. Trade companies and individual licence holders were consulted for the first time in November 2021 and the table of amendments following this can be found at Appendix 9. Following extensive liaison with both the local and national trade associations and a number of alterations made to the policy, it was felt that a second consultation should be undertaken which had the closing date of 28 August 2022. The outcome of this exercise is available as Appendix 10. The table below summarises the consultation process, the key stages and main changes made.

Key events / dates	Implications to policy	Outcome
July 2020 - New statutory guidance from DfT.	30 major changes for all councils with taxi policies are required. For Herefordshire only 7 major changes were required, as the others were in place already.	Officers amended the policy and sent this out for consultation. However, complaints were received from the trade regarding officer competency and their empathy with the trade following the impact of Covid lockdown restrictions.
May 2021 - Legal Services, in conjunction with the cabinet member, engage an external	Numerous changes made to the new policy in addition to the 7	Consultation from October to December 2021. Responses numbered over 83, some very detailed and complex, one

specialist to draft an alternative new policy to overcome the trade's concerns. The draft policy was submitted to the council for consideration in October 2021.	mandatory ones required originally by the DfT guidance. Some of these were minor but others raised the policy to a much higher standard, including vehicle ages and testing requirements.	being 13,000 words. Policy therefore referred back to officers to review.
January to July 2022, the officers review policy and consultation responses and meet the trade association(s). 2 nd consultation exercise undertaken in August 2022.	57 major significant changes made to policy and over 150 minor ones.	Consultation sent out with changes. This time only two consultees responded, with minor changes requested. It became clear that only five outstanding issues remained.
September to November 2022, the officers review policy and the second consultation responses.	25 minor changes made to policy.	Outstanding matter remaining were: <ol style="list-style-type: none"> 1. Trade allege that the penalty points system has issues in which should not be in there. 2. The trade wish to know if there is funding to assist with the installation of CCTV. 3. Trade dispute the seating requirement that all seats must have unobstructed access to a door.
October to November 2022 – The officers and Cabinet Member consider the three outstanding matters.	Recommended no further changes to be made to policy.	Decision <ol style="list-style-type: none"> 1. The penalty points scheme was reviewed and should remain in the policy as drafted; 2. CCTV funding was researched from external sources, but was not available; 3. Seating configuration to remain as it has been since 2012 and in the two previous policies. This is for passenger comfort.

Appendices

Appendix 1 Revised policy

Appendix 2 Penalty Points Scheme

Appendix 3 Previous Convictions policy

Appendix 4 Dual Driver Licences

Appendix 5 Hackney Carriage Proprietor

Appendix 6 Private Hire Vehicle Proprietor

Appendix 7 Private Hire Operator

Appendix 8 CCTV specification

Appendix 9 Table of amendments following first consultation in November/December 2021

Appendix 10 Consultation responses for second consultation in August 2022

Appendix 11 Table of proposed licensing decision making functions

Background papers

None identified

Governance	John Coleman	Date 20/09/2022
Finance	Louise Devlin	Date 20/09/2022
Legal	Alice McAlpine	Date 07/09/2022
Communications	Luenne Featherstone	Date 01/09/2022
Equality Duty	Carol Trachonitis	Date 01/09/2022
Procurement	Mark Cage	Date 09/09/2022
Risk	Kevin Lloyd	Date 09/09/2022
Approved by	Ross Cook	Date 30/11/2022