

Title of report: Taxi and private hire policy 2023 – 2028

Meeting: Council

Meeting date: 13 October 2023

Report by: Cabinet Member Roads and Regulatory Services

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 2023 - 2028. 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 policy be approved;**
- b) the implementation date be 1st January 2024 to allow time for trade compliance;**
- c) authority be delegated to officers as specified in the licensing decision making process appended to this report;**
- d) authority be delegated to officers to make legal or statutory guidance changes and, administrative error corrections to the policy.**

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 Failure to have in place an updated policy would leave the Licensing Authority with an outdated and non-compliant policy to guide the decision making process, and would increase the risk of delayed or inconsistent decisions being taken.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.

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 a 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 holders. 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 initiated 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 for 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. This policy was initially presented to the December 2022 Council meeting, at that time a decision was made to defer adoption, asking the former Cabinet Member to further consider the policy.
10. The election in May 2023 resulted in a change to the Cabinet Member. The new Cabinet Member supported further meetings with the Taxi Association in seeking to resolve where possible any outstanding areas of issue. A proposed new condition regarding the acceptance of card payments also required a further round of consultation.
11. Meetings were held between the officers and representatives from the Taxi Association in May and June 2023. The purpose of these meetings was to further review the policy and each appendix and make any amendments that could be agreed. These meetings proved successful and the time and contribution that the Herefordshire Taxi Association Members provided is both recognised and appreciated by the Licensing Authority and Cabinet Member.
12. The main changes to the policy since the December Council meeting are as follows:
 - a) Inclusion of a condition to mandate card payments
 - b) Re-wording of seat configuration to allow larger vehicle to have a third row of seats
 - c) Review of Penalty Points Scheme
 - d) CCTV specification amended to facilitate incorporation of an audio switch.
 - e) Review of Knowledge Test
 - f) CCTV specification review

None of these amendments have impacted on public safety since the Policy was last presented to Full Council in December. Negotiation and a clear understanding of the Trade's concerns resulted in the policy being amended to the satisfaction of both the Trade and the Licensing Authority, but has resulted in an agreement as to how the required changes can best be implemented. Therefore the agreed changes enhance public safety with the inclusion of card payments, ensures larger vehicles are not disadvantaged by having to remove seats, a penalty points scheme and knowledge test which is fit for purpose, CCTV which complies with the latest regulations, all of which are supported by the trade.

13. The Taxi Association has indicated that they are in agreement with the changes at this time and are now in support of the revised policy. If approved, the policy will be uploaded to the council's website and email notification will be sent to licence holders regarding the amended policy. As a consequence of these amendments, 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

14. 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.

Environmental Impact

15. 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.
16. 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.
17. 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.
18. 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.
19. 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

20. 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.
21. 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

22. 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.

23. The request for a new HC7 post will be funded in this financial year and is cost neutral as follows:-

Cost of new post 01 Oct 2023 – 31 March 2024	£19,943
Saving from vacant HC7 post 6 months 22931 vacant during restructure and issues recruiting to replacement post.	£(19,943)

Legal implications

24. 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.
25. 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

26. The proposed policy will offer greater protection for the most vulnerable persons in our community whilst they are travelling within a council licensed vehicle.
27. 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

28. 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 in August 2022 with a third consultation exercise in May 2023. The outcome of these

exercises is available as Appendix 10. The table below summarises the consultation process, the key stages and main changes made. The Taxi Association have issued a response to state that “following some agreed amendments, the trade can now support the amended policy for Full Council in October 2023”.

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 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.	Numerous changes made to the new policy in addition to the 7 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.	Consultation from October to December 2021. Responses numbered over 83, some very detailed and complex, one 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	25 minor changes made to policy.	Outstanding matter remaining were:

policy and the second consultation responses.		<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.	<p>Decision</p> <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.
December 2022 – The draft policy was presented to Council and the decision was to delay the decision whilst the Cab Member sought further detail resulting from the questions raised during the meeting.	This additional time was to give the trade and Cab Member further opportunity to present and consider any information which remained outstanding.	No further Instruction from Cab Member due to election.
May 2023 – consultation was undertaken on the inclusion of two new conditions associated with cashless payments and to have mandatory card payment machines in all Hackney Carriages	This came from safeguarding concerns and was also highlighted as a problem by the Taxi Association and other concerned trade members.	Consultation responses were positive and the condition was added into the conditions.
June 2023 – consultation review meetings with	These were to review the documents individually and make any	All documents reviewed with Taxi Association representatives over several meetings. The policy is now agreed with the Taxi Association and it is accepted by officers as having legal standing, and

the Taxi Association	amendments required	been adapted from the original from Mr Button to suit the specific needs of Herefordshire.
September 2023 All Member Briefings	These sessions were to ensure Members were fully appraised of the proposed policy and the history to its presentation to Council in October 23	

Appendices

- i) Revised policy
- ii) Appendix 1 Penalty Points Scheme
- iii) Appendix 2 Dual Driver Licences
- iv) Appendix 3 Hackney Carriage Proprietor
- v) Appendix 4 Private Hire Vehicle Proprietor
- vi) Appendix 5 Private Hire Operator
- vii) Appendix 6 Table of proposed licensing decision-making function
- viii) Appendix 7 Summary consultation responses for first consultation in Dec 2021
- ix) Appendix 8 Consultation responses for second consultation in August 2022

Background papers

None identified