

28 August 2019

Report of	Assistant Director (Communities)	Author	Jon Ruder ☎ 282840
Title	Changes to the Hackney Carriage and Private Hire Licensing Policy		
Wards affected	Not applicable		

## 1. Executive Summary

- 1.1 The report proposes changes to the Council's Hackney Carriage and Private Hire Licensing Policy in the light of recent operational experience.

## 2. Recommended Decisions

- 2.1 It is recommended that the changes, set out in the following report, be made to the Council's Hackney Carriage and Private Hire Licensing Policy.

## 3. Reason for Recommended Decision

- 3.1 The Council has committed to keeping the Hackney Carriage and Private Hire Licensing Policy under review to ensure that it remains fit for purpose and is responsive to the changing licensing environment. The Policy has been in operation since January 2019 and a small number of changes have been identified which would aid the clarity of the Policy and its operation.

## 4. Alternative Options

- 4.1 To leave the Policy unaltered which would fail to address the recent issues identified.

## **5. Suggested Changes to the Policy**

### **Hackney Carriage Proprietors' Suitability**

- 5.1 The Council's Hackney Carriage/Private Hire Licensing Policy currently focuses on the suitability of the vehicle both in age, size, specification and mechanical suitability to be a hackney carriage; it does not include a test in relation to the fitness and propriety for hackney carriage proprietors. This contrasts with the requirement for licensed drivers to hold an enhanced DBS and operators who must have a basic DBS.
- 5.2 As licensed vehicles, hackney carriages attract little attention. They are able to move around largely unnoticed at times when other modes of transport would be noticed. As a result, they can provide ideal transportation for the movement of vulnerable persons and items such as illicit alcohol, tobacco and drugs.
- 5.3 It is therefore suggested that Annex 2 of the Policy relating to the licensing of hackney carriage vehicles be amended to require, as part of the application process, a basic DBS from all vehicle proprietors, including joint owners. It is further suggested that this be accompanied by a requirement to list all previous convictions and any other relevant material information. This additional requirement is because vehicle proprietors are included within the Rehabilitation of Offenders Act 1974 and therefore any convictions become spent and will not, in time, appear on the DBS. The proposed changes will enable the Council to take a more informed view on the suitability of the applicant to be a vehicle proprietor. It is also suggested that proprietors are required to complete mandatory safeguarding training which brings them into line with drivers and operators.
- 5.4 The application process would be amended to require hackney carriage proprietors to provide the following information, in addition to the information already provided in relation to the vehicle being licensed –
- A current Passport or Birth Certificate
  - Evidence that they may legally work in the UK
    - Please note - If circumstances come to light during the lifetime of the licence that they no longer have a right to work in the UK, the licence will be revoked.
  - A basic Disclosure and Barring Service Check. The disclosure must be less than three months old when the application is made. Thereafter a DBS must be submitted every three years. If they are also a licensed driver with the Council this requirement would not apply.
- 5.5 There is no definition in the Act of fit and proper and therefore it is suggested that the following test be included at Paragraph 2.3 of the Policy and used when deciding the suitability of an individual –
- Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arising suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence.
- 5.6 The Council's Policy does not currently set a minimum age for vehicle proprietors and it is suggested that this is changed so that all owners must be 18 years or over.

### **Revocation of Hackney Carriage Vehicle Licence**

- 5.7 The Council has a number of hackney carriage vehicle licences which list one or more owners. This is lawful but can present some difficulties in relation to enforcement matters as any action taken under the relevant legislation is against the vehicle licence and therefore affects all parties, with an interest in the vehicle, equally.
- 5.8 It is proposed that the following process be added to the hackney carriage conditions to deal with those cases where it may be necessary to revoke the vehicle licence because of the actions/behaviour of one party only-

A member of the Licensing Team will investigate the facts of the case which may include interviewing one or more of the parties under caution. The Council may also, as part of its investigation request a new DBS check or Police National Computer Check (PNC) for one or more of the parties to ensure it has all the evidence necessary to properly investigate the matter. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and may result in a licence, previously granted, being revoked.

You will be notified of the outcome of the investigation, and any resulting revocation, in writing.

Where the decision is taken to revoke the vehicle licence because of the behaviour of one of the parties only, the remaining proprietor will be invited to apply for the licence to be granted in their sole name.

There is a right of appeal to the Magistrates Court and in the event that the appeal is upheld, the appellant would be added as a joint owner on the relevant vehicle licence.

### **Use of Meters**

- 5.9 To add to Paragraph 8 of the Annex on hackney carriage vehicles and Paragraph 8 on the Annex on private hire vehicles that the meter must be turned on at the start of every journey.

### **Driver Conditions – Pre-licensing Standards**

- 5.10 Currently, in order to be licensed as a hackney carriage/private hire driver you must be over 21 years of age and have held a full UK Driving and Vehicle Licence Agency (DVLA) (or equivalent) driving licence for at least three years. The recent changes to the driver application process which came into effect in January 2019 have highlighted difficulties in the checking of non-UK driving licences.
- 5.11 If a driver, with a non-UK driving licence, is convicted of an offence since driving in the UK on their non-UK licence, they are issued with a UK licence number (a Ghost Record) and any endorsements are held against that licence number. This record can be checked in the usual way if disclosed.
- 5.12 To enable the Council to satisfy the statutory test that drivers are fit and proper to hold a licence it is recommended that an additional requirement is added to the pre-licensing standards that applicants holding an EU country driving licence must obtain a UK counterpart licence from the DVLA before they can be considered for a hackney

carriage/private hire drivers licence and the details must be disclosed to the Council. Applicants from all other countries must apply for a full UK DVLA licence before being considered.

## **Selling a Vehicle**

- 5.13 To add to the hackney and private hire conditions the following -

If the vehicle is sold to someone else who is going to use it for hackney/private hire work the Council must be informed, in writing within 14 days, of the name and address of the new owner. If this is not done the existing owner will remain responsible for the hackney carriage or private vehicle licence. A fee will be charged to transfer the licence to the new owner.

## **6. Strategic Plan References**

- 6.1 The Policy aims to contribute to the Council's vision of the Borough by ensuring that the licensed trade plays a significant role not only in the Borough's transport strategy but also in helping to promote Colchester and thereby enhancing our reputation as a destination and encouraging further investment.

## **7. Consultation**

- 7.1 The changes seek to clarify the stance already taken in the Policy, which has previously been the subject of extensive consultation. However, there are some changes that may have an impact on the ability to hold a licence or the business interests of certain parties and therefore it is considered that the changes are put out to consultation with the trade.

## **8. Publicity Considerations**

- 8.1 The new revised Policy will be available for all on the Council's website.

## **9. Financial Implications**

- 9.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy.

## **10. Equality, Diversity and Human Rights Implications**

- 10.1 The draft Policy has been developed in accordance with, and taken account of, all relevant legislation and national and local strategies.

## **11. Risk Management Implications**

- 11.1 A flexible yet robust revised Policy will continue to provide the Council with a sound basis for decision making.

## **12. Health & Safety and Community Safety Implications**

- 12.1 There are no known direct health & safety or community safety issues which might arise from the adoption of the revised Policy.