

AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

Licensing Committee - 1 November 2018

Report of	Chief Officer, Environmental and Operational Services
Status	For Decision
Key Decision	No

Executive Summary: This report seeks to get permission from The Licensing Committee to allow a 6 week consultation on amendments to the Hackney Carriage and Private Hire Licensing Policy which came into effect 21 July 2016. This authority is required to regularly review its Taxi Licensing Policy.

Once the consultation has concluded the draft amended policy along with results and feedback from the 6 week consultation will return to the Licensing Committee on 7 January 2019

Portfolio Holder	Cllr. Anna Firth
Contact Officer	Jessica Foley, Ext. 7480

Recommendation to Licensing Committee: That

- a) the draft amended Hackney Carriage and Private Hire Policy for public consultation be approved; and
 - b) the practice of the Licensing Authority paying for the annual medical tests for drivers aged over 65 to cease with effect from 31 March 2019.
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Reason for recommendation: To enable the Council to make decisions for Hackney Carriage and Private Hire licensing in accordance with the interpretation of the legislation.

Introduction and Background

- 1 Sevenoaks District Council has responsibility for licensing Hackney Carriage and Private Hire vehicles, drivers and operators within the District of Sevenoaks. The existing policy was published in July 2016 and may be revised from time to time in keeping with the legislation.
- 2 The policy will remain in existence for a period of five years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.

- 3 The changes to the policy proposed are set out in a table attached to this report as Appendix A.

Proposed Amendments

Payment of Yearly Medicals

- 4 Although not in the policy, current practice is that SDC pay for these yearly medicals and the driver only pays for the renewal medical every 3 years.
- 5 Sevenoaks has approximately 80 drivers over 65 years of age. We are charged (at present) £40 per certificate for the annual medicals for over 65s via a contract with a local surgery. The current contractor has indicated this cost is likely to increase if and when we re-tender the contract (currently extended to March 2019). If the other amendment to allow GPs to carry out the tests (instead of a contracted surgery) then we could face charges of nearer £100 per test (research has provide this data).
- 6 It is proposed that this practice is stopped and that with effect from 1 April 2019, the Licensing Authority will cease subsidising this requirement and the over 65 drivers will have to pay for their own medical certificates. This would bring us in line with our Licensing Partners in Maidstone and Tunbridge Wells Borough Councils. We believe that this should be a legitimate business expense that drivers should be able to claim back through their business accounts. (this will need clarification)

DVLA Mandates

- 7 *Appendix A, row B.* The policy states, 'Drivers will be required to sign a mandate form to allow the Licensing Authority to carry out the check with the DVLA.' The DVLA are changing their procedures and processes so the amendment is to delete the sentence.
- 8 *Appendix A, row C.* Hackney Carriage and/or Private Hire Driver Licence - New and Renewal applications. The policy states, 'DVLA mandate completed and signed by the applicant.' The amendment is to replace that with, 'Authorisation from driver that DVLA check can be carried out by The Licensing Team.'
- 9 *Appendix A, row E.* As above, DVLA processes are changing so the amendment is just to change the word 'Mandate' to 'check'.

Medical Fitness

- 10 *Appendix A, row D.* Our current policy states that applicants must use the Council's appointed medical centre. The amendment is to require applicants to obtain the same medical standard but by a GP. This will give the applicant more freedom to get a medical. There is less chance of the applicant facing a waiting list and if the medical is carried out by the applicants own GP then the GP will have knowledge of their full medical history.

Operator's Address

- 11 *Appendix A, row F.* It is currently not specified in the policy that the address must be within the District of Sevenoaks. The amendment is to add in the wording suggested in the table with 'grandfather rights' included for any Operators already licensed that are outside of the district.

Amendments to the Policy

- 12 *Appendix A, row G.* The policy currently states 'All changes to the Policy are made by the Licensing Committee only.' However, this does not reflect the current legal position. Therefore it is proposed to amend it to say that 'All changes to the Policy are currently put to the Licensing Committee and then considered by Full Council.'

Vehicle Test Standards

- 13 *Appendix A, row H.* The Policy currently states 'SDC will not licence any vehicle that is classed as a Category C insurance write off.' The amendment is to change Category C to Category S as the terminology has now changed.

Legislative Changes

- 14 *Appendix A, row I.* The Policy currently sets out the penalty points that would be issued for failing to comply with the Disability Discrimination Act 1995. The proposed amendment is to ensure that the Policy reflects current legislation, namely the Equality Act 2010, concerning discrimination offences against disabled people.

Fees

- 15 *Appendix A, row J.* The Policy currently states 'A holder of a Hackney Carriage Driver's licence is able to drive a Private Hire vehicle. However, a holder of a Private Hire Driver's licence **may not** drive a Hackney Carriage vehicle.' The proposed amendment is to delete this paragraph as it is untrue. A Hackney Carriage Driver must also have a Private Hire Driver badge and certificate if they wish to drive a Private Hire Vehicle.

DSA (Driving Standards Agency)

- 16 *Appendix A, row K.* The Policy mentions the DSA (Driving Standards Agency) in a number of places. They no longer carry out driving standards tests for Taxi drivers and therefore we have a different approved provider. There may be more providers added to that so the proposed amendment is to change any part of the policy that states DSA to Driving Standards test or Council approved provider.

Other Options Considered and/or Rejected

The council could choose to retain its current policy without changes but to do so could make the application process harder for applicants and current drivers regarding the medical centre. Compliance and enforcement as to

Private Hire Operators addresses difficult and the wording within our policy, incorrect. Therefore keeping the existing policy without these amendments is not a course of action that is recommended.

Key Implications

Financial

Officers may incur additional costs and increased difficulties in enforcement should they need to visit Operators outside the district. Failure to ensure the Policy is compliant with current DVLA or insurance practices may mean that Officers spend more time defending a challengeable decision. Paying for yearly medicals for those aged 65 and over currently costs the council over £3000 per annum.

Legal Implications and Risk Assessment Statement.

Should parts of the industry believe the authority's Taxi Licensing Policy is not sound it would be open to them to undertake judicial review proceedings.

Equality Assessment

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper fall in line with the legislation and do not pose a risk to issues surrounding equality.

Conclusions

The current policy without changes could make the application process harder for applicants and current drivers regarding the medical centre. Compliance and enforcement as to Private Hire Operators addresses could be difficult due to distance and the wording within our policy could be incorrect. The changes recommended are to improve and correct our policy as well as change best practice to benefit the council.

The options available are to:-

1. agree all the amendments as detailed above, to be put out to consultation for 6 weeks;
2. agree to some of the amendments for consultation but leave others out; or
3. reject the suggested amendments to the policy being put out to consultation and leave the Hackney Carriage and Private Hire Policy as it is.

Appendices

Appendix A - Table to show draft changes to the policy

Appendix B - Draft Policy Document

Background Papers

[Sevenoaks District Council Hackney Carriage and Private Hire Policy](#)

Richard Wilson

Chief Officer Environmental & Operational Services