

STATEMENT OF HACKNEY CARRIAGE & PRIVATE HIRE POLICY

Council - 25 February 2020

Report of Chief Officer Planning & Regulatory Services

Also considered by: Licensing Committee - 7 January 2020

Status: For approval

Key Decision: No

Executive Summary:

This report presents an amended 'Statement of Hackney Carriage and Private Hire Policy' following an 8 week consultation. The purpose of the policy is to define how the Council will exercise and administer applications submitted under Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The policy sets out the expectations of the Council when licensing drivers, vehicles and operators.

This report supports the Key Aim of sustainable economy.

Portfolio Holder: Cllr. Margot McArthur

Contact Officer: Michael Moss, Ext. 7364

Recommendation to Licensing Committee To agree that the 'Statement of Hackney Carriage and Private Hire Policy 2020-2023' (attached as **Appendix A** to this report) be recommended to the Council as a revised Policy to come into effect from 1 April 2020.

Recommendation to Council

That the Statement of Hackney Carriage and Private Hire Policy 2020-2023 as revised Policy be adopted as from 1 April 2020.

Reason for recommendation:

While it is not a legal requirement, it is best practice for a Licensing Authority to have a Statement of Hackney Carriage & Private Hire Policy.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy. There have been a number of minor changes to the policy which is outlined in the contents of this report.

Introduction and background

- 1 The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 put a duty on the Council, acting as the Licensing Authority (LA), to determine the suitability of licensed drivers, vehicles and Operators, with a view to public safety.
- 2 There is no legal requirement for the Council to have a 'Statement of Hackney Carriage and Private Hire Policy (SHCPHP).
- 3 The purpose of the policy is to outline the approach that Sevenoaks will take when dealing with applications made under The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976; the document covers the following:
 - a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
 - b) How the Council will assess the suitability of licensed drivers, vehicles and Operators
 - c) The LA's approach to regulation & expected standards; and
 - d) The scheme of delegation.
- 4 The last revision of the SHCPHP took place in February 2019.
- 5 The SHCPHP 2020-2023 can be reviewed and updated at any time during the life of the document. The Council keeps the SHCPHP under constant review to support the trade and continually improve of public safety.
- 6 The new SHCPHP 2020-2023 for the District is proposed to commence from 1 April 2020.
- 7 As of the start of December 2019 there were 342 Driver Licences, 278 Vehicle Licences and 42 Private Hire Operator Licences held within the Sevenoaks District, this includes both Hackney Carriage and Private Hire drivers.
- 8 The SHCPHP 2020-2023 document does not cover any activity that is outside the scope of The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Proposal and Reasons

- 9 The new draft SHCPHP 2020-2023 for the District has been prepared with reference to the current policy, legislative updates, benchmarking against other Borough's policies and the recent consultation. In

addition, the format of the current SLP has been updated in order to make the new document easier to read and more accessible.

- 10 The final draft has been produced as a result of the following stages:
- 11 **Stage 1: Production of first draft:** The first draft of the new SHCPHP was produced by undertaking a review of the policy document and benchmarking against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).
- 12 The outcomes from the above and key difference between the current SHCPHP and the Draft were as follows:
- 13 **Dual Drivers Licence:** Section 3 of the Policy which relates to Driver's Licence has been amended to include a new licence type: Dual. A Dual licence can only be obtained by a Hackney Carriage driver and will allow the driver to drive both Hackney Carriage and Private Hire vehicles without having to change or buy additional badges.
- 14 **Clarification on Executive Vehicles:** Section 4 of the Policy which relates to Vehicle Licences now includes a section under 4.7 which specifically relates to the expectation of the Council when considering plate exemptions for Private Hire vehicles.
- 15 **Immigration:** Clarifications were added to address legislative or Section 182 Guidance changes. The SLP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.
- 16 **Reference to engine sizes:** Any reference to engine sizes have been removed from the Policy.
- 17 **Tinted Windows:** The previous requirement for tinted windows has been removed as this was overly burdensome and costly to the trade. The sections relating to tinted windows now state "All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations. Additional wording was added during the consultation following a response from the Council's appointed garage.
- 18 **Amendments to Penalty Points:** A requirement of Officers to deal with penalty points within a specific timeframe (10 working days) was unrealistic. The issue of penalty points requires thorough investigation and it can take up to 2 weeks to obtain CCTV footage; this restriction has been removed to ensure complaints and penalties can be dealt with fairly.

- 19 **Declaration of cautions:** The convictions section of the Policy has been amended to include cautions.
- 20 **Human Rights:** Section 2 of the Policy which relates to Policy and procedures now includes a section under 2.2 called 'European Convention on Human Rights'.
- 21 **Amendments to VOSA write-off categories:** Any old VOSA categories have been replaced with the new write-off categories.
- 22 **Stage 2: Production of final draft:** Public Consultation on the draft SHCPHP took place over an 8 week period between 21 October 2019 and 13 December 2019. Where feedback, suggestions and comments were within scope of the Licensing Act 2003 and the SLP, these are presented in summary in **Appendix B**.
- 23 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SLP 2020-2025.
- 24 A notification email was sent to all Kent Police, all Sevenoaks District Council's licensed drivers, vehicle licence holders, PH Operators.
- 25 During the 8 week public consultation, 6 submission were received.

Conclusion

- 26 The Councils processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over a premises.

Key Implications

Financial

There are no specific financial implications resulting from the matters considered in this report, as the minimal cost of consultation and publication in respect of the proposed Council's Statement of Hackney Carriage and Private Hire Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the

Council is ensuring a consistency of approach.

Equality Assessment

Section 149(1) of the Equality Act 2010 requires that, in exercising its functions public sector bodies to have ‘due regard’ to the need to -

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act;
- Foster good relations between people who share a relevant ‘protected characteristic’ and those who do not;
- Advance equality of opportunity between people who share a relevant ‘protected characteristic’ and those who do not.

Assessing the potential impact on equality of proposed decision, changes to policies, procedures and practices is one of the key ways in which the Council can demonstrate that they have had ‘due regard’. Assessing impact on equality should be tailored to, and be proportionate to, the decision(s) being made.

Officers have considered the impact of the proposals contained in this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council’s ongoing duty.

Appendices:

Appendix A - Taxi Policy
Appendix B - Taxi Policy Responses

Background Papers:

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

Richard Morris
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