

Report to: Licensing Committee

Date: 30th September 2019

Title: Taxi Licensing Guidance Review

Report of: Director of Service Delivery

Ward(s): All

Purpose of report: To consider and approve the Hackney Carriage and Private Hire Licensing Guidance reviewed Taxi Licensing guidance

Officer recommendation(s): That the Licensing Committee considers the Hackney Carriage and Private Hire Licensing Guidance in light of the comments received during the consultation

Reasons for recommendations:

- 1) Eastbourne Borough Council does not currently have an all-encompassing Hackney Carriage and Private Hire Licensing Guidance and it is good practice to do so.
- 2) To enable the Licensing Committee to review the proposed changes to the as identified by public consultation.

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1 Introduction

- 1.1 Currently Eastbourne Borough Council does not have all-encompassing Guidance relating to Hackney Carriage and Private Hire Vehicles although it does have licence conditions and byelaws and guidelines relating to the relevance of convictions etc. that have been in place for a number of years..
- 1.2 The draft Guidance, attached as **Appendix A**, was considered by the Licensing Committee on the 4th April 2019 and following that meeting was put out for consultation. Between 23rd April and 18th June 2019 the Licensing Team invited comments from residents, private hire and hackney carriage drivers, operators and other stakeholders about its draft taxi licensing guidance for Eastbourne. The consultation was published on the Council's website, advertised in the local newspaper and paper copies held at the Council offices and sent to the Disability interest group. We have received detailed responses from the trade and other interested parties.
- 1.3 The full responses from the consultation are included within **Appendix B**.

2 Background

- 2.1 It is good practice for Licensing Authorities to have Hackney Carriage and Private Hire guidance to protect the safety and welfare of the public.
- 2.2 In addition the current landscape for hackney carriage and private hire licensing has changed significantly over recent years, with smart phone apps altering the way vehicles can be booked, a change in the law allowing cross border sub-contracting of jobs, and a number of sexual exploitation incidents involving the taxi trade having occurred in other parts of the country. It is therefore appropriate that Eastbourne Borough Council adopt Guidance in light of this.
- 2.3 Under current legislation the Council can only stipulate that Hackney carriages be mandatory wheelchair accessible vehicles (WAV) and this cannot apply to Private hire vehicles. In terms of wheelchair accessibility the relevant case law includes *R v Manchester City Council, ex p Reid and McHugh* and *R v Lincoln City Council, ex p King and Cook, R v Luton Borough Council ex. p Mirza*.
- 2.4 The Department of Transport: Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010) at paragraph 14 points out that different accessibility considerations apply between taxis and Private Hire Vehicles (PHVs) since taxis can be hired on the spot whereas PHVs can only be booked through an operator. It is considered that a disabled person should be able to hire a taxi on the spot with the minimum of delay or inconvenience, and having accessible taxis helps make that possible.

3 Notable changes to existing guidance

- 3.1 The draft Guidance proposes to achieve four broad objectives. These are:-
 - i. Ensure the safety and welfare of the public which is the overriding objective,
 - ii. Encourage environmental sustainability,
 - iii. Ensure an efficient and effective hackney carriage and private hire provision,
 - iv. Monitor and improve standards of service in the trade
- 3.2 Minor amendments to this Guidance may be made by the Functional Lead - Quality Environment in consultation with the Chair of the Licensing Committee. Significant changes shall still be brought before the Licensing Committee.
- 3.3 The introduction of Intended Use (Hackney Carriages only) in order that the Council may retain local control over the hackney carriages it licenses, applicants will be asked as part of the application and renewal process which area they intend to entirely or predominantly operate from for the purposes of fulfilling pre-booked hiring's. It will be incumbent upon the applicant to demonstrate to the Council's satisfaction that they intend to ply for hire predominantly within the district.
- 3.4 The current guidance allow vehicles to be up to 7 years old on first application, this Guidance changes to 5 years in recognition of environmental concerns.

- 3.5 Any person found cheating on knowledge tests will be disqualified from the test and will not be granted a licence for at least three years
- 3.6 Drivers will, under the new Guidance be required to attend training sessions on Disability Awareness and Child Sexual Exploitation and Safeguarding. Applicants will be required to pass the training before a licence can be issued.
- 3.7 Licensed drivers will be required to have a medical assessment at least every five years from the ages of 45 to 65 and after the age of 65 to provide an annual medical assessment. The Council may also require a driver to provide more frequent checks if in the opinion of a medical practitioner that is necessary. The medical examination must be from a medical practitioner who has accessed the applicant's medical records for at least the last two years.
- 3.8 Legislative changes in relation to the Right to Work are added as Appendix 4 of the proposed Guidance
- 3.9 Guidance on the relevance of convictions is stronger to reflect the Institute of Licensing Guidance 2018 on determining the suitability of applicants and licensees.
- 3.10 All new Hackney Carriage Vehicles will only be licensed if they are wheelchair accessible. The vehicles may be either side loading or rear loading.

4 Key findings

- 4.1 We received 272 responses to our online survey forming part of the consultation, 9 paper copies and three separate letters/emails. The responses can be further broken down into 162 responses from residents and 98 from drivers/operators.
- 4.2 A further detailed email was also received from a Private hire operator with 83 separate signatures from Licensed drivers, which are contained in their entirety in Appendix B.
- 4.3 A detailed analysis of the findings is available in Appendix B attached to this report. In summary:
- There was a high level of agreement for all four broad objectives of the guidance with **over 90% of respondents agreeing or strongly agreeing** with the proposals.
 - **70% of all respondents agreed** that an 'intended use' policy is needed.
 - **60% of respondents agreed** that newly licensed vehicles should be no older than five years. **32% of respondents disagreed** with this proposal.
 - **56% of respondents agreed** that 6 monthly VST (Vehicle Suitability Tests) tests should be undertaken. **39% of respondents disagreed** with this proposal.
 - **36% of respondents said they felt there is no unmet demand** in Eastbourne for wheelchair accessible vehicles with **29% believing that there is unmet demand. 70% of drivers felt there is No unmet demand whereas 40% of residents felt there was an unmet demand** (with 42% of residents stating that they did not know).

- **36% of respondents agreed** that when Hackney carriage vehicles are replaced they should all be replaced with wheelchair accessible vehicles. **58% of respondents disagreed** with this proposal. **(83% of drivers disagreed with this proposal. 46% of respondents with a disability agreed with the proposal).**

5 Items for consideration by the Licensing Committee following consultation

- 5.1 It is considered that the following items in paragraphs 5.2 to 5.7 are significant changes for consideration following the consultation responses. However it should be noted that the Committee may wish to consider all the responses as detailed within **Pages 3 to 10 of Appendix B and the appendices 1-4 contained within Appendix B.**
- 5.2 Equalities, disability awareness, CSE and safeguarding should be introduced as a section on the Knowledge test or by separate certification.
- 5.3 That the Council should adopt emissions limits rather than cubic capacity of the vehicle such as Euro 4 Petrol and Euro 6 Diesel, as opposed to a minimum CC: or Euro 5 for diesel.
- 5.4 Vehicles be permitted up to 5 or 7 years old from first registration upon first application.
- 5.5 As Hackney carriage vehicles are replaced, there should be a requirement for them to be replaced with (A) wheelchair accessible vehicles / or:
(B) There will be no requirement for replacement vehicles to be WAV's
- The vehicles may be either (A) Side loading or rear loading/ or: (B) rear loading only.
- 5.6 All new hackney carriage vehicles should only be licensed if they are (A) wheelchair accessible, or (B) No change to current policy
- The vehicles may be either (A) Side loading or rear loading/ or: (B) rear loading only.
- 5.7 Any person found cheating on knowledge tests should be disqualified from the test and not be granted a licence for at least three years.

6. Proposed Way Forward

- 6.1 That the Committee considers the comments arising from the public consultation in relation to the Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance at Appendix A

7 Financial appraisal

- 7.1 There are no significant costs identified within this report.

8 Legal implications

8.1 There is no statutory requirement for the licensing authority to adopt any Guidance in relation to hackney carriages or private hire licences but it is considered best practice to do so as it informs and guides decision makers and assists with consistent decision making. However any Guidance is not a fetter on decision making as each case must be judged on its own merits.

8.2 This report was considered by the Legal Section on 19 September 2019 (IKEN-8059-MW).

9 Risk management implications

9.1 It is important that these changes are considered to ensure the safety of the public.

10 Equalities Analysis

10.1 The equalities implications were considered at the drafting of the Guidance in particular the proposed introduction of Wheel chair accessible Hackney carriages.

11 Sustainability implications

11.1 In line with the Council's Sustainability Policy 2018 and the three Pillars of sustainability, we are aware of and have considered this at the time of writing the Guidance and will work to reduce environmental impact wherever it is within our power to control or influence by improving air quality. The introduction of the relevant Euro Standards for vehicle emissions provided for in this Guidance will seek to further improve air quality within the Borough.

12 Appendices

- Appendix A – Proposed Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance
- Appendix B – Analysis of Public consultation (including responses from the trade)

13 Background papers

None