

Report to:	Licensing Committee
Date:	14th December 2023
Title:	Hackney Carriage and Private Hire Guidance Consultation Results
Report of:	Director of Service Delivery
Ward(s):	All
Purpose of report:	<p>1) To report the findings of the consultation on the proposed changes to Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance (“the Guidance”)</p> <p>2) To agree a final Guidance document to be adopted on a date to be agreed.</p>
Officer recommendation(s)	<p>1) That the Committee considers the consultation responses received.</p> <p>2) That the Committee considers if changes are to be made to the Guidance following the results of the public consultation.</p> <p>3) That the Committee delegates the Senior Specialist Advisor to take the necessary steps to implement any changes, produce a final Guidance and publish it on a date to be agreed with the Chair of the Licensing Committee.</p> <p>4) That the Committee agrees that the Guidance should be reviewed every three years</p>
Reasons for recommendations:	The consultation sought views on changes to the Guidance following feedback received from the trade and changes deemed appropriate by officers.
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1 Introduction

1.1 This Committee meeting follows on from the Licensing Committee on 22nd June 2023, which having regard to the proposed changes to the Guidance,

agreed that the revised Guidance should be consulted on for a 6 week period. It was also agreed that the results of that consultation should be brought back to a subsequent Licensing Committee, unless only minor changes were proposed following the consultation, in which case those could be dealt with by the Lead for Regulatory Services in consultation with the Chair of Licensing. Members are asked to note that it is considered appropriate for all changes to be considered by the Licensing Committee.

- 1.2 Members are asked to note that the Licensing Committee on 12th January 2023, considered having an annual review of the Guidance. Having followed this process this year, on reflection, it is a task which takes up some significant time. Therefore, Members are asked to consider that a review of the Guidance takes place every three years. Members are asked to note that in the Statutory Taxi and Private Hire Vehicle Standards (July 2020), to which Members should have regard, it is advised that Licensing Authorities should review their licensing policies every five years, but also consider interim reviews should there be significant issues arising in their areas.
- 1.3 Due to the size of the Guidance, Members are asked to note for information that Officers intend to reformat the document.
- 1.4 The Guidance that went out for public consultation is attached at Appendix 1 and the summary of results, the Consultation Report is attached at Appendix 2,
- 1.5 Members are advised that the Department of Transport Taxi and Private Hire Vehicle Licensing Best Practice Guidance has recently been updated, on 17th November 2023. There are some parts of this document which are relevant to changes proposed and the outcomes of the consultation, attached at Appendix 3.

2 Background

- 2.1 The online survey part of the consultation took place from 31st July 2023 to Monday 25th September 2023.
- 2.2 The consultation was promoted through a press release to the local media. An email was sent to everyone who had responded to a previous taxi and private hire licensing consultation. The consultation was also promoted through the council's social media channels and key stakeholders were emailed directly with an invitation to respond to the consultation.
- 2.3 The consultation information was sent to all members of the Lewes Taxi and Private Hire Drivers Forum. The proposed changes were discussed at that Forum on Thursday 26 October 2023.
- 2.4 The Lewes Town Council Planning committee discussed the consultation at their meeting on 28th August 2023, and provided a written response

2.5 Three written responses were received from Brighton and Hove Cab Trade Association, Home to School Transport Representative for Parents and Carers Council in Brighton and Hove and Minibus Travel Services Ltd.

2.6 A composite document with the responses is attached at Appendix 2

3.0 Specific changes considered during public consultation

- 3.1
- a) Due to current challenges in the recruitment of drivers to the profession locally, in support of the trade, the addition of private hire driver licences be applied
 - b) An additional requirement that drivers are expected to sign up to the National Disclosure and Barring Service.
 - c) The requirement for a HMRC tax code to be shared with the licensing authority
 - d) Further clarity regarding the English proficiency test
 - e) Link to guidance regarding the new Taxi and Private Hire Vehicle (Disabled persons) Act 2022
 - f) Changes to current Penalty Points Scheme
 - g) An addition of a Customer and Driver Charter
 - h) Privacy Notice
 - i) An addition of information regarding the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

4 Key Findings

4.1 The online survey asked questions from the list in paragraph 3.1.

4.2 The first question asked 'In what capacity were the respondents acting?':

A resident	61.73%	221
A driver licensed by Lewes District Council	27.93 %	100
An operator licensed by Lewes District Council	3.07%	12
A partner organisation or community group	0.84%	3
Other Local Authority	3.35%	12
Other	3.07%	11

4.3 Question 2

Current guidance: All new drivers can only apply to hold a Dual Hackney Carriage or a Restricted Private Hire driver licence. A dual licence allows drivers to drive a Hackney Carriage vehicle and/or a Private Hire vehicle. A restricted Private Hire drivers licence only allows a driver to undertake school transportation work in a private hire vehicle.

Proposal: We would introduce a Private Hire-only licence for new applicants. As a Private Hire driver, the applicant would not be required to complete the 'Routes' section of the knowledge test but would still need to complete all other aspects of the knowledge test and application. How much do you agree or disagree with this proposal?

4.4 **Responses:**

Strongly agree	15.58%	55
Agree	25.50%	90
Disagree	15.30%	54
Strongly disagree	31.73%	112
Don't know	11.90%	42

Members are advised to make reference to Appendix 2 page 3 for comments made and a further breakdown of results. Members are also advised to make reference to paragraph 6.11 of Appendix 3 in relation to topographical knowledge of private hire drivers.

4.5 Question 3

The purpose of a penalty point scheme is to take a stepped approach for enforcement against a licence holder, for certain matters.

Proposed change: We would reword the scheme to make it easier for licence holders to understand. This would also help to streamline investigations. The number of penalty points for certain matters has also been changed to better reflect the severity of some matters.

How much do you agree or disagree with this proposal?

4.6 Responses:

Strongly agree	18.47%	65
Agree	48.01%	169
Disagree	7.10%	25
Strongly disagree	10.80%	38
Don't know	15.63%	55

Members are advised to make reference to Appendix 2 page 4 for comments made and a further breakdown of results.

4.7 Question 4

This charter sets out what passengers (customers) should expect when travelling in a Hackney Carriage or Private Hire vehicle in Eastbourne and what a driver can expect from a customer travelling in the vehicle. We do not currently have a charter, however other nearby authorities do.

See Appendix 8: Customer and Driver Charter How much do you agree or disagree with this proposal?

4.8 Responses

Strongly agree	28.29%	99
Agree	44.29%	155
Disagree	9.71%	34
Strongly disagree	6.57%	23
Don't know	11.14%	39

Members are advised to make reference to Appendix 2 page 5 for comments made and a further breakdown of results.

4.9 Question 5

Mandatory in-vehicle CCTV in all Private Hire and Hackney Carriage vehicles (other than private hire vehicles issued with a plate exemption for executive and VIP work, those vehicles solely used for this purpose) will become a requirement from 30 September 2023.

Following feedback from the taxi trade, we are considering the possibility of allowing audio recording via the CCTV of licensed vehicles. Current guidance: The CCTV system shall not be used to record conversations between members of the public, since that is highly intrusive, and if any system is equipped with a sound recording facility, then that functionality shall be disabled. Proposed change: Audio recording should be permitted. Do you agree or disagree with this proposal?

4.10 Responses:

Strongly agree	37.96%	134
Agree	24.08%	85
Disagree	13.31%	47
Strongly disagree	18.98%	67
Don't know	5.67%	20

Members are advised to make reference to Appendix 2 page 5 for comments made and a further breakdown of results.

4.11 Question 6

If you agree with the proposal that audio recordings should be permitted, do you agree or disagree that audio recording should be permitted?

4.12 Responses:

Answer choices	Strongly agree	Agree	Disagree	Strongly Disagree	Don't know	Response Total
At all times in limited circumstances	43.70% 111	26.38% 67	6.30% 16	14.57% 37	9.06% 23	254
That audio be recorded via CCTV if the customer or driver wishes it as activated by a trigger switch	33.33% 86	33.72% 87	10.08% 26	14.73% 38	8.14% 21	258
That audio be recorder via CCTV in vehicles driven by the restricted private hire licence	41.86% 108	31.01% 80	8.14% 21	9.30% 24	9.69% 25	258

Members are advised to make reference to Appendix 2 page 6 for comments made and a further breakdown of results.

4.13 Question 7

Current guidance: Currently there is no requirement to carry a legal spare wheel or appropriate alternative such as a tyre repair kit made up of a compressor which inflates the tyre.

Proposed change: We are considering introducing the condition for all licensed vehicles to carry a spare wheel or an appropriate alternative in the boot of the vehicle and the necessary tools to fit the spare wheel. How much do you agree or disagree with this proposal?

4.14 Responses

Strongly agree	29.83%	105
Agree	32.95%	116
Disagree	12.22%	43
Strongly disagree	14.49%	51
Don't know	10.51%	37

Members are advised to make reference to Appendix 2 page 7 for comments made and a further breakdown of results.

4.15 Question 8:

We would not license any vehicle that has been classed a written-off in any category

Current guidance: If a vehicle has an MOT, VST and valid insurance it can be licensed by Eastbourne Borough Council as Hackney Carriage or Private Hire. We do not take into consideration vehicles being classed as 'written-off'.

Proposal: There are several categories for vehicles to be classed as written-off. These range from those which cannot be repaired and those which could potentially be repaired to a roadworthy condition. We would not license any vehicle that has been classed a written-off in any category. Do you feel that you agree with this proposal?

4.16 Responses:

Strongly agree	34.57%	121
Agree	27.43%	96
Disagree	12.00%	42
Strongly disagree	12.57%	44
Don't know	13.43%	47

Members are advised to make reference to Appendix 2 page 7 for comments made and a further breakdown of results

4.17 Question 9

Proposed change: Drivers shall sign up to the Disclosure and Barring Service. It is considered that this will speed up the licence application and renewal process. A DBS check is a way to find out whether someone has a criminal record. Do you feel that you agree with this proposal?

4.18 Responses:

Strongly agree	52.41%	185
Agree	38.53%	136
Disagree	2.55%	9
Strongly disagree	1.98%	7
Don't know	4.53%	16

Members are advised to make reference to Appendix 2 page 8 for comments made and a further breakdown of results.

4.19 Question 10

Proposed change: A grant of a licence will be subject to a tax code check being made with the HMRC. This is to ensure all drivers are registered correctly for tax purposes. Do you feel that you agree with this proposal?

4.20 Responses

Strongly agree	45.61%	161
Agree	28.90%	102
Disagree	9.63%	34
Strongly disagree	8.78%	31
Don't know	7.08%	25

Members are advised to make reference to Appendix 2 page 8 for comments made and a further breakdown of results.

4.21 Question 11

Proposed change: All new applicants are required to undergo a proficiency test to demonstrate their ability to communicate effectively in the English language. Any person found cheating on the test will be disqualified and will not be granted a licence for at least three years. Do you feel that you agree with this proposal?

4.22 Responses

Strongly agree	56.94%	201
Agree	33.43%	118
Disagree	3.40%	12
Strongly disagree	1.98%	7
Don't know	4.25%	15

Members are advised to make reference to Appendix 2 page 9 for comments made and a further breakdown of results.

4.23 Question 12

Proposed change: We are proposing to introduce a Privacy Notice. As data controllers, Eastbourne Borough Council must hold and process licence holders' personal data in order to issue and manage Hackney Carriage and Private Hire licences. This includes personal information such as including medical records, in order to determine whether a licence can be issued.

Do you feel that you agree with this proposal?

4.24 Responses

Strongly agree	29.34%	103
Agree	45.30%	159
Disagree	5.41%	19
Strongly disagree	7.69%	27
Don't know	12.25%	43

Members are advised to make reference to Appendix 2 page 9 for comments made and a further breakdown of results

4.25 Question 13

Do you consider that drivers should undertake GDPR training?
The General Data Protection Regulation (GDPR) is a legal framework that sets guidelines for the collection and processing of personal information from individuals who live and outside of the European Union (EU).

4.26 Responses

Yes	39.80%	39
No	60.20%	59

4.27 Question 14

If you have answer yes to the previous question, do you think this training should be mandatory or discretionary?

4.28 Responses

Mandatory	57.41%	31
Discretionary	27.70%	15
Don't know	14.81%	8

Members are advised to make reference to Appendix 2 page 10 for comments made and a further breakdown of results

4.29 Question 15

We are proposing that drivers / licence holders would need to undertake Safeguarding Awareness training every three years. This is to ensure all drivers are aware of good safeguarding practices and how to report concerns. Do you agree with this proposal?

4.30 Responses

Strongly agree	44.44%	44
Agree	28.28%	28
Disagree	7.07%	7
Strongly disagree	18.18%	18
Don't know	2.02%	2

Members are advised to make reference to Appendix 2 page 10 for comments made and a further breakdown of results.

4.31 Question 16

Do you think that there are other changes that should be made to the Guidance? If yes please outline those changes with your reasons in the box below.

4.32 Responses

No further changes requested	7
The policy on white taxis to be changed	4
Concerns over cross border hiring	4
Vehicles should be allowed that are over 10 years old	3
More Ubers should be licensed	2
Limit the number of licenses being issued	2
Quicker response time form the council	2
Better choice for VST garages	2

5 Written submissions

5.1 Feedback has been provided through the Lewes Town Council Planning Committee response. Three written submissions were received during the consultation from Brighton and Hove Cab Trade Association, Home to School Transport Representative for the Parents and Carers Council in Brighton and Hove and Minibus Travel. These are attached at Appendix 2.

These submissions are summarised as follows:

5.2 Appendix A: Feedback through Lewes Town Council Planning Committee

- Feedback received to specific questions as noted in Appendix 2
- Recommendation of including Suicide Awareness Training
- Requested that further incentives are looked into regarding air quality and the Taxi and Private Hire Trade
- Consideration to incentivise the acquisition of Wheelchair Accessible Vehicles

5.3 Appendix B: Written response from Brighton and Hove Cab Trade Association

- Opposed to a private hire only licence in Lewes District

5.4 Appendix C: Written responses from Home to School Transport Representatives for the Parents & Carers Council in Brighton & Hove.

- In support of Audio with CCTV in vehicles used for Home to School Transport, Social Care runs

- Supporting greater partnership working between both Brighton and Hove Council, East Sussex County Council and the Licensing authority regarding transport for vulnerable groups as noted above.

5.5 Appendix D: Written responses from Minibus Travel Services

- Requesting that service offered by this business is recognised as a specialist dedicated service.

5.6 The Licensing Authority actively engages with the taxi trade through forums. The priority of the Licensing Authority is public safety. Whilst Officers endeavour to work closely with the hackney and private hire trade their role is to present a balanced viewpoint from the public, other agencies, community groups as well as the trade to Members.

6 Options

6.1 The Committee is asked to consider what, if any, changes are to be made to the Guidance taking into account the results of the public consultation.

6.2 The Committee will see that section 3.1 outline several proposed changes to the Guidance. The Committee is asked to decide for each one as follows:

- a. Implement the change as proposed.
- b. Disregard the change.
- c. Implement the change in part as appropriate.

7 Financial Implications

7.1 Some proposals in this review involve costs to the trade as follows;

- a. Approved suppliers have been contacted and provided feedback that the installation of Audio on existing CCTV systems will be approximately £80-150 per vehicle.

There are no immediate Financial Implications arising from this report, however one proposal in this review will impact some suppliers. Those impacted have been contacted and provided feedback that the installation of Audio on existing CCTV systems will be approximately £80-150 per vehicle.

8 Legal implications

8.1 There is no statutory requirement for the Licensing Authority to adopt any Guidance in relation to hackney carriage and private hire licences. However, the statutory Standards recommend that Licensing Authorities should make publicly available a cohesive document which brings together all its procedures. In any case, it is considered best practice to have such Guidance as it informs, guides decision makers and assists with consistent decision making. Any Guidance is not a fetter on decision making as each case must be judged on its own merits.

The Legal Section considered this Report on 1 December 2023 (Iken 12470-LDC-MW).

9 Risk management implications

9.1 No relevance

10 Equality analysis

10.1 No relevance

11 Environmental sustainability implications

11.1 No relevance

12 Appendices

- 12.1
- Appendix 1 - Lewes District Council Hackney Carriage and Private Hire Licensing Guidance (consultation document)
 - Appendix 2 - Analysis of Public consultation (including written submissions)
 - Appendix 3 - Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England (17 November 2023)

13 Background papers

- 13.1
- Statutory Taxi and Private Hire Vehicle Standards July 2020
 - Statutory Guidance. Access to taxis and private hire vehicles for disabled users (June 2022)
 - DPIA to take into account the potential impact of changes in relation to audio.