

**Report to:** Licensing Committee

**Date:** 26 June 2023

**Title:** Amendments to the Hackney Carriage and Private Hire Licensing Policy

**Report of:** Director for Service Delivery

**Ward(s):** All

**Purpose of report:** To review the changes to the Hackney Carriage and Private Hire Licensing Guidance and agree a six-week public consultation.

**Officer recommendation(s):** That the Committee:

(1) Reviews the proposed Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance.

(2) Authorises the Senior Specialist Advisor to start a six week consultation with the taxi trade, partner agencies and the public regarding changes to the guidance and about wheelchair access transportation in the community.

(3) Agrees that the results of the consultation be reported to a subsequent meeting of the Licensing Committee, unless only minor changes are proposed as a result of the consultation responses, in which case any changes may be made by the Lead for Regulatory Services in consultation with the Chair of the Licensing Committee.

**Reasons for recommendations:** The changes seek to update the Policy as part of an annual review.

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## **1 Introduction**

- 1.1 Eastbourne Borough Council is responsible for the licensing of drivers, vehicles and operators in relation to the Hackney Carriage and Private Hire Trade.
- 1.2 In exercising its discretion in carrying out its licensing functions, the Licensing Authority shall have regard to the Hackney Carriage and Private Hire Licensing Guidance.

- 1.3 The current guidance applies to all drivers, vehicles and operators in January 2023 it was confirmed at the Licensing Committee that the licensing authority would commit to an annual review of the guidance.
- 1.4 The licensing authority regularly meets with the trade through a series of taxi forums, which provide an opportunity to update the trade with any changes which they need to be aware of as well as providing an opportunity for an open discussion of challenges which they are facing and to discuss ways that the licensing authority can support them.
- 1.5 Officers have taken on points raised specifically about the challenges in recruiting new drivers into the trade and potential barriers. Changes have recently been made to provide further clarity in guidance notes available for new applicants as to the format of knowledge tests and the type of information they may be asked in questions.
- 1.6 There currently is no cap on the number of hackney carriages in Eastbourne, however a barrier to new vehicles into the trade has been the requirement at considerable costs of new vehicles being wheelchair accessible. In light of recent changes to legislation Taxi and Private Hire Vehicles (Disabled Persons) Act 2022 this further extends a duty to all hackney and private hire drivers to carry disabled persons generally and provide mobility assistance. It is felt that a wider consultation is required working in collaboratively with other partners about engaging with the public and accessing the demand and requirements for community transport throughout Eastbourne particularly that of Disabled Persons.
- 1.7 Recent feedback has been given about the trade in relation would like audio to be included in licensed vehicles with the CCTV systems. Officers have given this request serious consideration and have consulted with the information governance team at Eastbourne Borough Council. The ICO (Information Commissioners Office) provide the following information regarding audio.

*You should not normally use surveillance systems to directly record conversations between members of the public. This is highly intrusive and unlikely to be justifiable in most circumstances. In most situations, the use of audio recording, particularly where it is continuous, is considered more privacy intrusive than purely visual recording. Its use will therefore require a much greater justification and you should switch **off** by default any capability to record audio. You should only use it in exceptional circumstances, for example by a trigger switch.*

*If your system comes equipped with an independent sound recording facility, then you should turn this off or disable it in some other way, unless you can clearly justify and evidence its use. If you cannot control sound recording separately you need to consider how privacy intrusive the system is as a whole, including the recording of sound.*

*You should **only** use audio recordings when you have:*

- *identified a particular need or issue and can evidence that this need must be addressed by audio recording;*
- *considered other less privacy intrusive methods of achieving this need;*
- *reviewed the other less privacy intrusive methods and concluded that these will not appropriately address the identified issue and the only way to do so is through the use of audio recording.*

*You should take additional steps to make it clear to individuals that audio recording is taking place, over and above any visual recording which is already occurring.*

## **2 Proposed Changes**

2.1 The licensing authority has taken into consideration feedback received from partner agencies, the public and the trade itself in reviewing the guidance this year. Please See Appendix 1.

Please see a list of changes proposed:

- Changes in Licensing Guidance - Any changes in licensing requirements for drivers will be followed by a review of the licences already issued.
- Removal of the requirement for new licensed hackney vehicles to be wheelchair accessible in light of the Taxi and Private Hire vehicle (disabled Person) Act 2022 - Page 6.
- Due to current challenges in the recruitment of drivers to the profession locally, in support of the trade the addition of restricted and private hire driver licences be applied - Page 13.
- An additional requirement that drivers are expected to sign up to the National Disclosure and Barring Service - Page 16.
- The requirement for a HMRC tax code to be shared with the licensing authority - Page 18.
- Further clarity regarding the English proficiency test - Page 19.
- Link to guidance regarding the new Taxi and Private Hire Vehicle (disabled persons) Act 2022 - Page 28.
- Changes to current Penalty Points Scheme - Appendix 7.
- An addition of a Customer and Driver Charter - Appendix 8.
- Privacy Notice Appendix.
- An addition of information regarding the Taxi and Private Hire Vehicles (Safeguarding and road safety) Act 2022 - Appendix 10.

2.2 A draft of the changes to the guidance is attached to this report at Appendix 1 with the proposed amendments highlighted in red.

2.3 The amendments contained in Appendix 1 will be published for a six week consultation period starting in July. The list of consultees includes the following:

- Local Licensing Authorities that border Lewes District Council
- East Sussex County Council
- Elected Members of the Council
- The hackney carriage and private hire trade licensed by the Council

- Parish and Town Councils
- Sussex Police
- The Members of Parliament for the District
- Social Services Child Protection Office
- DVSA (Driver and Vehicle Standards Agency)
- Local Bus and Rail operators
- Organisations representing local businesses
- Members of the public via the Council's web site, the local libraries and help points
- Age UK
- Women's Institute
- Fawcett Society
- Local disability groups.

### **3 Financial Impact**

- 3.1 There are no immediate financial implications anticipated as a result of the pending public consultation, review/changes to the Hackney Carriage and Private Hire Licensing Guidance. Any costs associated with the implementation of the amended policy will be covered by the income from the license and renewal fees received, which are reviewed annually by the Council.

### **4 Legal implications**

- 4.1 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 recommends that all licensing authorities should make publicly available a cohesive document which brings together all their procedures on hackney and private hire licensing. 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.
- 4.2 The Legal Section considered this Report on 16 June 2023 (Iken-12074-EBC-MW).

### **5 Risk Management Implications**

- 5.1 No risks associated.

### **6 Equality Analysis**

- 6.1 In light of changes proposed to remove the requirement of new hackney vehicles no longer having a requirement to be wheelchair access vehicles. The intentions are to facilitate a wider consultation and review of community transport to verify the needs of the community generally by community transport and for Eastbourne Borough council through further engagement with other partner agencies to consider partnership working around this subject matter.

### **7 Environmental sustainability implications**

7.1 There are no sustainability and/or carbon reduction implications associated with this Report.

## **8 Appendices**

8.1 Appendix 1 - Eastbourne Borough Council Taxi and Private Hire Guidance.

## **9 Background papers**

None.