



## **Taxi & General Licensing Committee**

**9 January 2024**

### **Private Hire and Hackney Carriage Licensing Policy 2023**

This report is public

<b>Committee Meeting Date:</b>	Tuesday 9 January 2024
<b>Policy Document:</b>	Private Hire and Hackney Carriage Licensing Policy 2023  Place
<b>Directorate:</b>	A - Draft Hackney Carriage and Private Hire Policy
<b>List of Appendices:</b>	B - All consultation responses C - A summary of the responses D - Equality Impact Assessment E - Proposed Discreet Plate Wording F - IOL guidance

### **1. Purpose**

- 1.1. The draft proposed West Northamptonshire Council Private Hire Vehicle and Hackney Carriage Licensing Policy was approved for consultation by the Taxi and General Licensing Committee on the 24<sup>th</sup> January 2023. The policy is to regulate the taxi trade in order to ensure a high standard of public safety.
- 1.2. The purpose of this report is to seek approval of the new West Northamptonshire Council Private Hire Vehicle and Hackney Carriage Licensing Policy post consultation considering responses received during the consultation process.

### **2. Recommendations**

Members are recommended to:

- 2.1 Approve a final draft of the West Northamptonshire Council Private Vehicle Hire and Hackney Carriage Licensing Policy and associated appendices (**Appendix A**) after considering responses received during the consultation process.

- 2.2 Delegate authority to the Assistant Director - Regulatory Services in consultation with the chair of the Taxi and General Licensing Committee to make minor and consequential amendments to the Policy once made and if required by law.

### **3.1. Report Background**

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- 3.1.1 We want those using taxis in West Northamptonshire to have a safe, reliable and pleasant experience.
- 3.1.2 Taxis regularly transport passengers who may be vulnerable, for example when the passenger is under the influence of drink or drugs or is travelling alone. There is a need to promote the highest safeguarding standards to protect both passengers and drivers. It is also important that drivers have the confidence to alert the authorities about the concerns that they may have about the safety of vulnerable passengers.
- 3.1.3 This report refers to a new Policy which improves and strengthens our current policies. With a new Licensing Team in place it provides an opportunity to publish a new policy which builds on the best practice identified from each of the old sovereign Councils.
- 3.1.4 The policy incorporates some of the recommendations contained within the "Statutory Taxi and Private Hire Standards" document published by the Department for Transport in July 2020 and the Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades.

### **3.2 Report Details**

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- 3.2.1 This new Policy will replace the current and still in force Northampton Borough, Daventry District and South Northamptonshire District Council policies and includes a number of updates and improvements with a clear policy statement. One unified policy is required to ensure consistency of approach and standards across West Northamptonshire.
- 3.2.2 This policy document sets out the driver, vehicle and operator standards and the way the Council will undertake our responsibilities for hackney carriage and private hire licensing. The policy sets out a clear approach to these matters for officers, members of the trade and the public.
- 3.2.3 The significant areas this policy focuses on are:
- improved driver standards,
  - strengthening the "fit and proper person" test
  - adopting the nationally recognised IOL convictions policy
  - mandatory safeguarding training
  - spoken English testing
  - driving standards training

- 3.2.4 The focus of this policy is to increase standards and therefore increase public safety. The policy will apply to all current licence holders and all new applicants.
- 3.2.5 We undertook pre-engagement with the taxi trade between the 28<sup>th</sup> of November and the 19<sup>th</sup> of December of 2022. This resulted in some minor amendments being made around tinted windows, rear seat width, minimum brake horse power and when exactly a full service history would be required.
- 3.2.6 The policy was then subject to an initial 8 week public consultation that was extended by a further 4 weeks after a request from representatives of the taxi trade. The consultation ran from the 30<sup>th</sup> of January 2023 until the 23<sup>rd</sup> of April 2023. A list of consultees can be found at section 7 of this report.
- 3.2.7 A number of meetings also took place with the taxi trade throughout the duration of the consultation process and any key points raised are summarised in the table attached as **Appendix C**.
- 3.2.8 We received a total 305 responses to the consultation, 209 of which were from licence holders within the taxi trade. Of the 305 responses 103 were considered to be complete, 202 responses were left without comment. All responses can be found at **Appendix B**.

Across West Northants Council there are currently;

Licensed Drivers 1794  
Licensed Operators 120

The responses are summarised in the table attached as **Appendix C** with recommendations as to how proceed on each point raised. These have also been incorporated into the draft policy and are highlighted yellow.

- 3.2.9 There are some comments that have been made during the consultation process that are outside of the policy. These comments have also been included within **Appendix C** and are titled additional comments.
- 3.2.10 The proposed introduction of a penalty points system has attracted a high volume of negative comments throughout the consultation process. The penalty points system is seen as an open and transparent way to deal with breaches of legislation, policy and local conditions. Several neighbouring authorities have adopted a penalty points system, including:
- North Northamptonshire Council
  - Leicester City Council
  - Cherwell District Council
  - Milton Keynes Council
  - Buckinghamshire Council
  - Bedford Borough Council
  - Rugby Borough Council
- 3.2.11 The proposed convictions policy has also attracted a high volume of negative comments throughout the consultation process. The policy that has been

proposed is the one recommend by the Institute of Licensing (IOL). Please see **Appendix F** for the IOL statement in relation to enforcement of the taxi trade.

### **3.3 Choices (Options)**

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3.3.1 It is recommended that the Committee approve the policy and appendices after considering the consultation responses for adoption by West Northamptonshire Council with a proposed implementation date as follows;

- The proposed change to a yearly vehicle licence will be implemented from the 1<sup>st</sup> of April 2024 when the fees will be reviewed.
- Vehicle Testing – if the decision is to introduce contracted garages across the West this will be implemented from the 1<sup>st</sup> of April 2024 to enable the tendering process to take place. Current processes will remain in place until that time.
- Safeguarding training for new applicants will be mandatory from the 1<sup>st</sup> of April 2024. Current licence holders will need to provide proof of Safeguarding on their next renewal post 1<sup>st</sup> of April 2024.
- Any enforcement action taken in relation to incidents reported before the 31<sup>st</sup> of March 2024 but not concluded until after the 1<sup>st</sup> of April 2024 will be dealt with in line with sanctions available under the existing sovereign policies.

3.3.2 Reason For Recommendation: Each of the sovereign authorities currently has their own Taxi and Private Hire policies and standards in place, which have different requirements for licensed vehicles, drivers and operators. One unified policy is required to ensure consistent standards and decision making across the authority.

3.3.3 Alternative Options Considered: To maintain the status quo or operate without a policy. There are no specific statutory time scales imposed on the Council to align taxi and private hire licensing policies however, failure to approve the policy would however result in the Council continuing to operate under the three sovereign policies, resulting in the continuation of differing standards for licensed drivers, vehicles and operators and the Council would not have one single unified policy which promotes consistent decision making.

## **4. Implications (including financial implications)**

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### **4.1. Policy**

4.1.1 This would introduce a new West Northants wide policy.

### **4.2. Legal**

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4.2.1. A licensing authority can only lawfully regulate the hackney carriage and private hire vehicle trade in its area, in accordance with the requirements of the Local

Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, by making publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing.

4.2.2 Paragraph 3.1 of the Department of Transport's **Statutory Taxi and Private Hire Vehicle Standards Guidance** (updated on 25<sup>th</sup> November 2022) states that:

*“When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the Report by Dame Louise Casey CB on safeguarding failings, published in February 2015;*

*“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride”*

*Rotherham Metropolitan Borough Council (Rotherham Council) provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.*

*One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. Licensing authorities should review their licensing policies every 5 years...”*

4.2.3 The three currently in-force cohesive policy documents published by West Northamptonshire Council's three District predecessor council were all prepared more than 5 years ago and all pre-date the publication of Dame Louise Casey's safeguarding report of 2015.

4.2.4 Paragraph 4 of the updated Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities states that:

*“Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.”*

The effect of case law is that in order to satisfy the above duties, licensing authorities must take into account all relevant information that could affect whether a licensed individual remains a fit and proper person to hold a licence, whether that be evidence of a criminal conviction or otherwise. It is for the authority to decide what information is relevant and what weight to give to it.

4.2.5 Paragraph 4.10 of the same guidance document states that:

*“The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual’s criminal record where there have been periods living or working overseas – the same applies when an applicant has previously spent an extended period (3 or more continuous months) outside the UK.*

*Licensing authorities should seek or require applicants to provide where possible criminal records information or a **certificate of good character** from overseas in this circumstance to properly assess risk and support the decision-making process ... As with all licensing decisions, each case must be considered on its own merits.”*

4.2.6 Paragraph 5.4 of the 25<sup>th</sup> November 2022 statutory guidance states that;

*“Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a fit and proper person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:*

*Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?*

*Licensing authorities have to make difficult decisions but ... the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability ... The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) **and can take into consideration conduct that has not resulted in a criminal conviction.***

4.2.7 Paragraph 9.2 of the same guidance states that;

*“Some licensing authorities operate a points- based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee’s time ... It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.”*

4.2.8 Paragraph 1.3 of the separate **Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England**, updated by the Department of Transport on 17<sup>th</sup> November 2023, states that:

*“The personal safety of passengers is critical. The government has clearly set out measures that licensing authorities should take to safeguard passengers in the [Statutory Taxi and Private Hire Vehicle Standards](#).”*

4.2.9 Paragraph 5.5 of the same, states that:

*“To increase compliance with licensing requirements some licensing authorities operate a points-based system, which allows minor breaches of the rules to be recorded and considered in context, while referring those with persistent or serious breaches to the licensing committee (or other bodies charged with reviewing). Such systems can provide greater consistency in enforcement and make better use of the licensing committee’s time. Authorities that operate a points-based enforcement system should make clear to licensees that these are separate to the ‘penalty points’ (endorsements) that the courts can put on a motorist’s licence ... licensing authorities that use a points-based system should ensure that licensees are aware of the policies to which they must adhere, are properly informed of what is expected of them, and the repercussions for failing to do so - the points for specific breaches should be clearly set out ...*

*It should be noted that reaching a points limit must not result in an automatic action but should be used to trigger a review of the conduct of the licensee and whether further action is necessary to address any concerns. Such action might be undertaking additional training not just a suspension or revocation. Licensing authorities should however consider whether a review is undertaken in situations where points are incurred within a short period but have not reached a review point; for example, a rapid accumulation of points may indicate deteriorating standards or increasingly unsatisfactory conduct.”*

4.2.10 With regard to private hire vehicle operators and compliance with employment law, paragraph 7.6 of the updated guidance states that;

*“It is not within the scope of this guidance to offer an opinion on the employment status of private hire vehicle drivers, nor is it for licensing authorities to decide on these matters: only the courts can make rulings on employment status ...*

*In the department’s view, where an employment tribunal or a court of law has ruled on the employment status of a driver or drivers working for an operator, whether the operator is complying with that decision in respect of the driver(s) referred to in the ruling, should reasonably be considered by a licensing authority as part of the ‘fit and proper’ test for a private hire vehicle operator.”*

4.2.11 Paragraph 8.15 of the updated guidance states that;

*“The personal security of taxi and private hire vehicle drivers and staff must be considered. [Section 17 of the Crime and Disorder Act 1998](#) requires local authorities and others to consider crime and disorder reduction while exercising all their duties.*

*To emphasise the reciprocal aspect of the taxi and private hire vehicle services, licensing authorities should make available signs or notices which set out not only what passengers can expect from drivers, but also what drivers can expect from passengers who use their service. Two [sample notices have been provided for illustrative purposes](#) but licensing authorities are encouraged to formulate their own, in the light of local conditions and circumstances.*

... Security measures include guidance, talks by the local police and conflict avoidance training. The department has issued guidance for drivers on staying safe:

- [Staying safe: guidance for taxi drivers](#)
- [Staying safe: guidance for the private hire vehicle trade](#)

**Legal implications added and report checked and approved by James Chadwick, Principal Lawyer, [james.chadwick@westnorthants.gov.uk](mailto:james.chadwick@westnorthants.gov.uk)**

### **4.3. Finance**

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4.3 There are no financial implications arising directly from this report.

**Comments checked by Robbie McRobbie, Senior Finance Business Partner, [Robbie.mcrobbie@westnorthants.gov.uk](mailto:Robbie.mcrobbie@westnorthants.gov.uk)**

### **5. Resources and Risk**

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5.1. For risk see legal comments. There are no resource implications involved with the introduction of this new policy.

### **6. Equality**

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6.1. An Equality Impact Assessment was carried out post consultation and is available as **Appendix D**.

### **7. Consultees (Internal and External)**

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7.1. A consultation process was carried out for 12 weeks and the below bodies were contacted.

- All licence holders
- The Hackney Carriage Association
- Northants Police
- Northants Police and Crime Commissioner
- Chamber of Commerce
- Home to Schools Transport
- Highways
- Community Safety and Engagement
- All Councillors
- All Parish and Town Councils
- All neighbouring local authorities

The policy was also advertised in the local press and via the Councils social media channels. The policy was available to the public on the West Northants Council website.



## **8. Background Papers**

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8.1. None

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