

Cherwell District Council

Council

28 February 2023

Revisions to the Council's Taxi and Private Hire Licensing Policy

Report of Assistant Director of Regulatory Services & Community Safety

This report is public

Purpose of report

In December 2022 a public consultation commenced on proposed changes to the Council's Taxi and Private Hire Licensing Policy ('the policy'). This public consultation closed on 31 January 2023.

Changes to the policy require approval by Council. This report provides a summary of the background to the proposed changes to the policy, the consultation process followed, a summary of consultation responses to date and the proposed revisions to the policy resulting from those responses.

The Council has a statutory duty to ensure the proper administration of taxi licensing legislation in the district. Taxi services are an important part of the local economy and therefore fulfilling this statutory duty contributes to the Council's priority to ensure the district has an enterprising economy with strong and vibrant local centres. The primary purpose of the licensing regime is to promote public safety and therefore the Council's work to licence taxi drivers, vehicles and operators also supports the commitment to work with partners to reduce crime and antisocial behaviour. Further, the proposed revisions to the licensing policy include measures to reduce the carbon emissions of the taxi fleet in support of the council's commitment to protect the environment and to help achieve net zero targets.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the work done to prepare a revised and updated Taxi and Private Hire Licensing Policy and the outcomes of the public consultation on that revised policy.
- 1.2 To agree that the Council adopts the revised Taxi and Private Hire Licensing Policy and supporting appendices provided with this paper.

2.0 Introduction

- 2.1 The Department for Transport recommends that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire licensing. The Council's Taxi and Private Hire Licensing Policy addresses the Council's primary aim in carrying out its taxi and private hire licensing function to protect and promote public safety. The Council must ensure that licensed vehicles are fit for purpose and that licensed drivers are 'fit and proper' in accordance with the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.
- 2.2 The Government's Modern Crime Prevention Strategy included a commitment to protect children and young people from the risk of child sexual abuse and exploitation by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. As a result, the Department for Transport has introduced Statutory Taxi and Private Hire Vehicle Standards to replace relevant sections of the Best Practice Guidance that was issued in 2010. The introduction to the standards states -
"There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to."
- 2.3 In 2022 a new National Register of Revocations and Refusals was introduced to enable local authorities to better share information about refusals or revocations of taxi driver or private hire vehicle driver's licences. The Council utilises this new register.
- 2.4 In 2020 the Council introduced a Climate Action Framework following the declaration of a climate emergency. In doing so the Council committed to "do its part to achieve a net zero carbon district by 2030". Emissions from taxis and private hire vehicles contribute to vehicle emissions in the district and therefore the Climate Action Framework included a commitment to facilitate and encourage electric taxis.
- 2.5 These changes provide the background to the requirement to update the Council's taxi and private hire vehicle licensing policy.

3.0 Report Details

- 3.1 The hackney carriage ("taxi") and private hire vehicle (minicab and chauffeur driven vehicle) trades provide a vital service to residents and visitors to Cherwell District in both the day and night-time economy, in particular in the areas of the district with limited public transport.
- 3.2 Currently the Council, through the Licensing Team, licences:
- 484 Hackney Carriage / Private Hire Drivers (dual licences)
 - 123 Hackney Carriage Vehicles
 - 313 Private Hire Vehicles
 - 80 Private Hire Operators (providers of a base and radio network)

- 3.3 In order to effectively administer the licensing regime, the Council requires a policy framework. The purpose of the policy is to:
- Ensure the safety of the public.
 - Ensure that drivers are fit and proper and vehicles are safe and suitable.
 - Provide a robust, and legally compliant, decision-making framework which protects the Council should decisions be challenged in the Courts.
 - Provide information to the trade, elected members, officers and the wider public on how the Council administers taxi / private hire licensing.
- 3.4 The authority's current Taxi and Private Hire Licensing Policy was adopted by Council at its meeting on 14 December 2015 and took effect in January 2016.
- 3.5 The Council's licensing team have prepared a revised draft taxi licensing policy. This draft policy is in appendix 1 of this paper with the associated policy appendices in appendix 1b. A list of the proposed changes and comments on those is in Appendix 2 and the Equality and Community Impact Assessment is included in Appendix 3. The text in the appendices in red shows the revisions to the policy that were made prior to the public consultation. The revisions in purple are those made as a result of the comments received and responses to the consultation.
- 3.6 The proposed updates to the policy include:
- Requirements of the new National Standards issued by the Department for Transport in July 2020.
 - Updated driver "fitness and propriety", and "safety and suitability" requirements (driving and medical records, criminal history, knowledge test, personal conduct and behaviour).
 - The introduction of the National Register of Revocations and Refusals (NR3) and how the council will use this register.
 - Changes to the policy requirements on the relevance and significance of any previous criminal convictions.
 - Amended driver testing and training requirements (both pre- and post-licence).
 - Amended vehicle testing, safety, access and condition requirements.
 - Clarification on duration of licences.
 - Updated driver and vehicle licence conditions (for example: on-going training, notifying changes in circumstances, dress code, etc.).
 - Clarified criteria for deciding whether to grant, renew, suspend or revoke licences.
 - Clarifications on enforcement of licence conditions.
- 3.7 In addition, the revision of the policy provides opportunity to set a framework for the reduction in emissions of the taxi fleet over time. There is clearly a need to balance the environmental benefits of reducing the emissions of the taxi fleet against the financial impact on drivers and operators of replacing vehicles. The policy provisions on emissions standards must meet the business needs of vehicle operators taking account of vehicle use/ journeys and charging infrastructure and duration. A new appendix G of the policy proposes a phased approach to raising the emissions standard requirements for licensed vehicles.
- 3.8 Concern has been expressed in recent years over the role played by taxi and private hire drivers in large scale organised Child Sexual Exploitation (CSE) in the country. In response the Council already has robust procedures in place for both the

licensing of drivers and the investigation of complaints. The Council continues to work with partners in order to strengthen licence conditions in relation to awareness and prevention of CSE. The proposed policy changes reflect the latest operating arrangements with the Police and local partners.

- 3.9 The National Register of Revocations and Refusals (NR3) is a nationally agreed mechanism enabling all licensing authorities to share information concerning individuals who have had licences refused or revoked. The Council's Licensing Team have started to use this register. The objective is to ensure that this authority is able to take properly informed decisions on whether an applicant is fit and proper, in the knowledge that another authority has previously reached a negative view on the same applicant. The Register also ensures that all other subscribed authorities are made aware of instances where Cherwell District Council has refused or revoked a licence, so ultimately improving public safety nationally.
- 3.10 Consultation on the proposed changes to the policy commenced on 1 December 2022 and closed on 31 January 2023. All current holders of taxi or private vehicle licences have been contacted directly to notify them of this consultation and two opportunities have been provided for licensees to meet with Licensing Team members to discuss the proposed changes and clarify any aspect of the proposed policy revisions. In addition, key partner organisations have also been notified of the consultation and invited to comment. A report on the consultation outcomes is included in appendix 4.
- 3.11 A Licensing Committee meeting was held on 18th January 2023 to review the proposed policy changes and to provide comment on the proposed revised policy for consideration. The Committee endorsed the proposed policy changes including those proposed as a result of the consultation feedback received by that date. In addition they asked that the policy revisions do not result in reductions in wheelchair accessible vehicles and that 'vintage' vehicles can still be licensed for use for celebratory events such as weddings. It has subsequently been confirmed that vintage vehicles used exclusively for transport to and from wedding venues do not require a licence. Applications for licences for vintage vehicles to be used for other events will be considered on a case by case basis.
- 3.12 Comments received during the consultation process highlighted some practical problems with the proposed policy revisions in relation to emission standards. In particular, drivers and operators commented that there are limited options for wheelchair accessible vehicles which meet the Ultra-Low Emission Vehicle standards (ULEV) and such vehicles are prohibitively expensive. In addition, the more limited range for ULEV vehicles makes some airport transfers challenging without adding significant cost to allow for charging time. Therefore, the policy revision proposals have been revised to achieve a balance between being practicable and affordable for the trade whilst still being consistent with climate change objectives.
- 3.13 The revised policy proposals in relation to emissions introduces standards which would apply to all applications for new vehicle licences from the date of adoption and includes standards which would apply from 1st March 2024 (one year after anticipated date of adoption of new policy) for both new vehicles and licence renewals. The revisions also allow any vehicle that was licensed prior to the adoption of the new policy to continue to be licensed until the 10 year age limit is

met. This reflects the feedback from the trade about the cost of replacing new vehicles which they had purchased with the intention of using for 10 years.

- 3.14 The policy still includes a requirement that from 2030 all vehicles at the time of first licensing must be propelled by either electric or hydrogen. However, the policy states that this clause will be reviewed at the time of the next 5-year policy review to consider the availability of sufficient infrastructure to support electric and hydrogen vehicles, the availability of such vehicles and suitability of models for the needs to the trade whilst also considering the affordability of those vehicles. This review is necessary in order to ensure that the introduction of the policy requirement in 2030 is practicable.
- 3.15 Further amendments as a result of consultation feedback are:
- Clarify that vehicles that are written off as a result of an accident can be replaced on a like-for-like basis with reference to the emissions standards that applied at the time of first licence of the written-off vehicle. Applications for grant of licences for replacement vehicles must be submitted with 6 months (policy paragraphs 11.2.5 and 11.1.8 and 11.8.4).
 - Added a requirement that licensed private hire operators should utilise drivers and vehicles licensed by the Council. This is intended to ensure that the licensed trade operating in Cherwell meets our standards. It is accepted that operators may need to utilise drivers licensed by other authorities on occasion but that this should be in exceptional circumstances only. Therefore, as guidance the revised policy states that the Council expects at least 75% of journeys arranged by licensing operators to be completed by Cherwell licensed drivers (policy paragraph 13.2.2).
 - Clarify the proposed policy provisions in paragraph 13.6.2 and 13.6.3 which restrict parking in the vicinity of operators licensed premises to ensure parking on private premises is not restricted and explain that 'Vicinity' will be assessed as parking within 10 metres of the licensed operator's premises. This provision is intended to reduce problematic parking around operator's offices which obstructs footpaths or the highway.
 - Clarify the policy requirements relating to drivers suffering from diabetes to require annual diabetes medical reports in line with DVLA medical standards (policy paragraph 9.6).
 - Added a requirement that licensed vehicles are required to have 6 monthly MOTs. This replaces the provision in the previous policy that the vehicle be subject to annual MOT and 6 monthly vehicle condition check (policy paragraph 11.2.1 and 11.2.2).
 - Added a requirement that drivers notify the Council of road traffic offences committed that are discharged by way of speed awareness training or similar rather than fine or conviction (policy paragraph 6.7).
 - Added a qualifying time-limit for the validity of safeguarding training undertaken as a requirement of licence applications so that there is clarity that safeguarding training should be completed within 3 months of the application and that the safeguarding training certificate is valid for 3 years (policy paragraph 8.4).
 - Amended to requirements in relation to lost property to reflect the fact that the police will no longer accept lost property at all Police stations (appendix B).
- 3.16 In addition comments were received on the proposal that the revised policy no longer allows the licensing of vehicles that have previously been written off by insurers. The current policy allows such vehicles to be licensed if supported by evidence that the vehicles has been examined with no faults or safety concerns being identified. The proposed policy revision remains on the basis that the

Licensing Team are not able to confidently assess whether a report on the safety of a previously written-off vehicle is sufficient to ensure public safety for the duration of a vehicle licence.

- 3.17 A further comment made during the consultation process related to the requirement in policy paragraph 7.2 that applicants who spend three months or more continuously outside the UK obtain a criminal record check or a certificate of good conduct from the country that they lived in. We were asked to consider a longer period than 3 months for this requirement. However, the DfT standards refer to 3 months and therefore it is not recommended that this period be extended for the purposes of our local policy.

4.0 Conclusion and Reasons for Recommendations

- 4.1 In order to effectively discharge the Council's taxi licensing legal obligations a policy framework is required. The current policy requires updating. The proposed new policy reflects changes to the statutory standards, provides clearer guidance on the taxi and private hire licensing process, and explains how the Council will make decisions in relation to the licensing of vehicles, drivers and operators. It also seeks to reduce the carbon emissions of the taxi fleet in the district.
- 4.2 It is recommended that the meeting agrees that the Council will adopt the proposed revised policy shown in the Appendices.

5.0 Consultation

- 5.1 As outlined above, a public consultation on the proposed changes to the policy took place between 1 December 2022 and 31 January 2023. This consultation took place through the council website with information being sent to all of the taxi licensed trade in the district to notify them of the consultation process. Licensing Team members responded to any requests for clarification on the revised policy both through two licensing forums and on an ad-hoc basis. In addition, key stakeholders have also been notified of the consultation process being followed and the Licensing Committee has met to review and comment on the proposals as outlined above. A consultation report is provided with this paper.

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not update the policy. It is a requirement that the policy is reviewed at least every five years and changes to the operating environment, Government and local policy suggest changes to the policy are required. Therefore, this option is rejected.

7.0 Implications

Financial and Resource Implications

- 7.1 There are no financial implications arising directly from this report. The proposed changes to the Council's Taxi and Private Hire Licensing Policy will be met within existing budget.

Comments checked by
Kelly Wheeler, Finance Business Partner
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Legal Implications

- 7.2 This report sets out the Council's approach to the review of its taxi licensing policy. The purpose of the policy is to set out how the Council will seek to protect and promote public safety and ensure that licensed vehicles are fit for purpose and that licensed drivers and operators are 'fit and proper' in accordance with the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.

The proposed policy changes include:- the Statutory Taxi and Private Hire Vehicle Standards which aim to protect the most vulnerable; utilising the new National Register of Revocations and Refusals to better share information; the upholding of the Council's commitment to achieve a net zero carbon district by 2030; and achieving greater access to taxi and private hire vehicles for those who are disabled.

Statutory Taxi and Private Hire Vehicle Standards

The review of the policy has taken in to account the guidance issued by central government (Department for Transport) and other regulatory bodies, namely the Statutory Taxi and Private Hire Vehicle Standards, to ensure it is consistent with those nationally and within Oxfordshire. The Department for Transport expects the recommendations to be implemented unless there is a compelling local reason not to. The process of consultation enables the trade, public and any other person to offer evidence that there is a compelling reason no to implement those standards in whole or in part. If any reasons are proposed the Officers Report will identify, discuss and recommend accordingly. If there is a deviation from the standards you the Council need to be persuaded that there is a compelling local reason based on the evidence before you.

National Register of Revocations and Refusals

Cherwell District Council has signed up to the National Register of Refusals and Revocations (NR3 register). This means that when an application for a taxi driver's licence is refused, or when an existing taxi driver's licence is revoked, that information will be placed on the register. The details of all applicants will also be checked against the information held on the register. This is for information only.

Commitment to Achieve Net-Zero

Cherwell District Council having declared a climate emergency seeks to adhere to its 2020 Climate Action Framework. In order to achieve the aims set out in that framework there are various proposed amendments to the policy. It is acknowledged that those changes may require the trade to spend on more environmentally friendly vehicles post-Covid and during a cost-of-living crises. The Officer's Report has provided comment on the feedback received during the consultation and how the policy proposals have been amended accordingly to aid the trade in responding to the proposed policy changes. Decisions need to ensure they support the aims set out in the Framework, incorporate how consultation response has been considered in light of those aims, and be balanced and within reason.

Access to taxis and private hire vehicles for disabled users

Further guidance on 'Access to taxis and private hire vehicles for disabled users' has given rise to a number of amendments within the draft policy. These amendments may also give rise to further expenditure and careful consideration needs to be given as per the principles outlined above, i.e. decisions need to incorporate how the consultation response has been considered in light of the aims of the guidance on 'Access to taxis and private hire vehicles for disabled users', and be balanced and within reason.

ECIA

The ECIA concludes that the proposed policy revisions offer no negative impacts that need to be mitigated. It identifies positive impacts on the environment and in relation to accessibility of taxis and private hire vehicles.

Comments checked by:

Nathan Mountney, Litigation Solicitor

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Risk Implications

- 7.3 The Council is required to have a taxi and private hire licensing policy and any risks arising from the implementation of this policy and its revisions will be managed within the service area.

Comments checked by:

Celia Prado-Teeling, Performance and Insight Team Leader

Celia.Prado-Teeling@Cherwell-DC.gov.uk, 01295 221556

Equalities and Inclusion Implications

- 7.4 An Equalities Impact Assessment has been completed as part of this proposal, identifying a positive impact in regard to equalities and climate implications. All council's proposals, changes and decisions are done taken careful consideration of our commitments to equalities and inclusion as set in our equalities framework, keeping those principles at the core of all we do.

Comments checked by:

Celia Prado-Teeling, Performance and Insight Team Leader

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7.5 Sustainability Implications

Transport is the largest source of greenhouse gas emissions in the district and therefore has the largest role to play in helping the district to become carbon net zero.

Supporting taxis to transition away from fossil fuel vehicles is entirely consistent with the council's 2020 Climate Change Framework and our commitment to enable the district to become carbon net zero.

Furthermore, the move towards EV and hydrogen fuelled vehicles will support improvements in the district's air quality which is in line with our commitment to enable residents to lead healthy lives.

Comments checked by Jo Miskin, Climate Action Manager, Environmental Services.
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8.0 Decision Information

Key Decision:

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

All

Links to Corporate Plan and Policy Framework

The work contributes to the Council's strategic priorities as outlined in the report above.

Lead Councillor

Councillor Eddie Reeves, Portfolio Holder for Safer Communities

Document Information

Appendix number and title

- Appendix 1 - Draft updated Taxi and Private Hire Licensing Policy and Appendices
- Appendix 2 - Summary of proposed changes to the Taxi and Private Hire Licensing Policy
- Appendix 3 - Equality and Community Impact Assessment.
- Appendix 4- Consultation report.

Background papers

None

Report Author and contact details

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