

Report to: **Development Management and Licensing Committee**

Date: **12<sup>th</sup> December 2017**

Title: **Approval of policy in relation to the licensing of Taxi drivers and vehicles.**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y / N**

Date next steps can be taken:  
(e.g. referral on of recommendation or implementation of substantive decision)

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**Recommendations:**

1. That the Licensing Committee recommends to Council that the draft Taxi Licensing Policy, is adopted at the next meeting, for implementation on the 1<sup>st</sup> April 2018.
2. That the Licensing Committee recommends to Council that the fees and charges for Taxis are amended to the figure as shown in para 3.3

**1. Executive summary**

- 1.1. West Devon Borough Council as the Licensing Authority has the power to issue licences to drivers of Hackney Carriages and Private Hire Vehicles, whom they deem as being fit and proper.

There is no legal definition of what makes a driver a fit and proper person, and it is therefore down to the licensing authority to determine

what qualifications they require an applicant to meet in order to be licensed. This policy seeks to set the minimum requirements we will seek from new and existing drivers.

The legislation also allows us to licence certain vehicles as either a Hackney carriage or a private hire vehicle. The legislation allows us to set standards that we expect vehicles to meet in order to be licensed.

- 1.2. The Council's current driver policy was adopted on the 1<sup>st</sup> January 2017 and this draft seeks to amend this policy with revised good practice. The Council's vehicle policy was issued in 1990's, and is therefore out of date. Ideally a policy of this importance should be reviewed every 3-5 years.
- 1.3. There have also been a number of pieces of national good practice guidance in relation to taxi licensing, and this policy seeks to adopt these. Also with the Council going through reforms in staffing the policy seeks to revise how we assess the appropriateness of vehicles to be licensed.

## **2. Background**

- 2.1. In West Devon we currently have 103 Hackney Carriage Vehicles and 19 Private Hire Vehicles licensed. A licence lasts for 1 year. All new vehicle owners are required to provide an MOT certificate and currently in the South Hams we will inspect the vehicle to ensure that we are happy it is safe and is in a respectable condition.
- 2.2. Our current policies are outdated but good practice dictates that vehicles should be tested in accordance with the Freight Transport Association (FTA) standards. In West Devon we have been using two garages to test the suitability of vehicles. Due to restrictions requiring tendering for this type of arrangement it is proposed to open this work up to any VOSA approved garage.
- 2.3. Our policy should ensure compliance with Article 13 (2) of Directive 2006/123/EC, given domestic effect by regulation 18(4) of the Provision of Services Regulation 2009 SI No 2999, in that the 'authorisation procedures and formalities' for applicants 'shall not be dissuasive...and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures'.

When drafting the policy, we have taken into account best practice from other authorities in the wake of the recent incidents surrounding the taxi industry elsewhere in the country.

The Policy has also been out for public consultation, meetings have been held with the taxi trade, and the policy was sent to various local and national representatives for comments. Comments received and alterations made to the policy can be viewed in Appendix A and explained later in this document.

### 3. Outcomes/outputs

- 3.1. This report seeks that the Committee recommend to the Council that the Taxi Licensing Policy be adopted for implementation on the 1<sup>st</sup> April 2018.
- 3.2. We will assess the impact of the policy by reporting to the committee at the annual meeting the number of applications received that have been successful/refused, the number of penalty points issued in a 12 month period, the decisions taken by committee in relation to drivers brought to them in the previous 12 months, and the number of successful appeals brought against Council decisions.

The policy will be reviewed in at least 3 years' time, but sooner should circumstances require it.

- 3.3. Due to requirements that driver licences should be granted normally for 3 years, and operator licences for 5 years unless there are exceptional circumstances we have reviewed the cost of delivering these licences. It is proposed that the committee recommend to Full Council that our fees for these are amended to as below. The fees proposed have been calculated based upon the cost of producing a plate, and officer time to evaluate documents:

<b>Licence Type</b>	<b>Licence Fee Proposed</b>	<b>Current Licence Fee</b>
1 Year Driver Renewal	£105	£101
3 Year Driver Renewal	£266	£272
New Driver Fee excluding knowledge test (1 Year)	£109	N/A
Knowledge Test	£50	£45
DBS Check inc. admin fee	£60	£50
1 Year Hackney Carriage Vehicle	£181	£168
1 Year Private Hire Vehicle	£160	£157
Application for exemption of displaying a Private Hire Plate	£60	N/A
1 Year Reduced Fee Vehicle Licence & replacement plate fee	£20	£117.60
1 Year Trailer Fee	£32.50	N/A
1 Year Private Hire Operator	£125	£118
5 Year Private Hire Operator	£472	£470

The setting of fees for licences is governed by the Local Government (Miscellaneous Provisions) Act 1974, s.70 states  
Fees for vehicle and operators' licences.

“(1)Subject to the provisions of subsection (2) of this section, a district council may charge such fees for the grant of vehicle and operators’

licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—

(a)the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;

(b)the reasonable cost of providing hackney carriage stands; and

(c)any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.”

Having undertaken a review of the costs of delivering the service and based on the legislation above we believe the costs above are reflective of our services.

#### **4. Options available and consideration of risk**

- 4.1. When considering applications for either a driver or vehicle licence the Council consider the safety of passengers and the public at large, and to a lesser extent the image of the area that would be fostered by granting a licence. A person aggrieved by refusal, suspension or revocation of a licence can appeal to the Magistrates Court within 21 days of that decision.

Decisions made by the Council need to be defensible. This policy seeks to set a minimum standard that we will expect our licensees to meet. However, notwithstanding this Policy, the Licensing Authority will consider each application and enforcement action on its own merits.

- 4.2. The importance of the taxi trade in providing an essential service in a rural community such as West Devon is recognised, and imposing unduly stringent restrictions may adversely impact the adequate supply of taxis.

Therefore the policy seeks to strike a decent balance between protecting the safety of taxi users and ensuring that the policy does not unnecessarily restrict the ability of applicants to obtain a licence.

- 4.3. When drafting the policy a public consultation was held from the 19<sup>th</sup> July until 30<sup>th</sup> September. During this period the Environmental Health Community of Practice held meetings with the taxi trade on the 1<sup>st</sup> and 3<sup>rd</sup> August. The feedback from this consultation and amendments made to the draft policy can be viewed in the appendices.

Based on the feedback received the following amendments were made and paragraphs considered:

**Driver Medicals:** A comment was received stating that they felt the policy was too lenient and that medicals should be done at least every 5 years no matter the age of the driver. We do not suggest amending as we are in line with current government guidance in relation to PSV and HGV driver medicals.

**24.4:** This paragraph was added at the request of drivers, the purpose is to allow properly tinted windows where the tint is being done to return the vehicle back to its original manufacturers' standards. This may be in relation to a repair, or where tinted windows were removed by a previous owner.

**25.2 & Appendix K:** These paragraphs have been amended to change the testing garages from ones approved by the Local Authority to any VOSA approved garage. Concerns were raised by drivers over access to garages for testing and the cost of testing. In order to have designated garages we would need to undertake a procurement exercise and it was not felt a good use of our resources to do this.

**25.4** To overcome our concerns about the control of the standard of testing, we have added the ability to request a re-test at a garage of our choice should we deem it necessary.

**26.2:** Comments were made about the safety of having ownership documents in the vehicle, this was initially designed to help us with enforcement on the rank but we believe it can be achieved through having access to the vehicle files out on site. We will therefore investigate this with our IT services and CIVICA.

**28.3:** Drivers do not believe there is a need for the newly proposed internal stickers, but prefer them to an external sticker. We are still working with a supplier on the design to make it serve the function of allowing the passengers to obtain the vehicle licence details, whilst not impacting on the aesthetics of the vehicle.

**Section 30:** Concerns were raised over the content of this paragraph, stating that they do not agree and feel that it imposes additional cost burden to the drivers. The control of CCTV is not under the control of the licensing authority but the Information Commissioner. We were proposing to check that the CCTV complies with this guidance, and we still believe that we should, and do not agree that it is an unreasonable cost burden as it is a legal requirement.

**31.4:** As we are no longer requiring vehicles to be tested at our test centres, we have relaxed the requirement also for trailers.

**31.5:** It is proposed that the licensing fees for a trailer should be set at £32.50 this is based upon the cost of producing the plate, and checking the documents.

**32.1:** Comments were made about banning idling on the ranks and the impact that this would have on the temperature of the vehicles and the

batteries. We have softened the language used to request the co-operation of the drivers in minimising their impact.

**36:** The policy in relation to fire extinguishers was changed following discussion with the Fire Authority. Without proper training a driver may put himself at risk by trying to tackle a fire with an extinguisher. During the consultation we have had comments both in support of this change and against it. We have therefore determined not to amend the policy from the draft as this we believe provides flexibility.

**37:** As above it is good practice to carry first aid kits but the drivers would need to be trained. It is therefore felt appropriate to have it in the policy as a recommendation.

**38:** We did receive comments in regards to the proposals to exempt the need to display a plate for private hire vehicles undertaking contract work. We do not envisage many applications for these exemptions being successful due to the criteria proposed to consider applications.

**47.2:** Following comments by the trade this paragraph was removed. The idea was to make private hire vehicles more noticeable and to help prevent illegal plying for hire by PHVs. We do not have evidence that this is a major problem in our area and therefore justifying the policy could be difficult. We will keep this under review and if evidence dictates the need we may include it in the next iteration of the policy.

**51:** The section on lost property has been amended to allow the companies greater flexibility on reuniting the goods with the correct owner. This was driven by the closure of a number of enquiry desks across the county.

## 5. Proposed Way Forward

- 5.1. This report seeks that the Committee recommend to the Council at the meeting on the that the Taxi Licensing Policy be adopted for implementation on the 1<sup>st</sup> April 2018.
- 5.2. That the fees proposed in 3.3, amended as necessary following the outcome of consultation as required by the Local Government (Miscellaneous Provisions) Act 1974, be adopted.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The Town Police Clauses Act 1847 gave the Local Authority the power to grant licences to Hackney Carriages for the purpose of plying for hire within the district.

		<p>The Local Government (Miscellaneous Provisions) Act 1976 amended the powers above to state that a licence can only be granted to someone who is a fit and proper person and has held authorisation to drive a motorcar (drivers licence) for at least 12 months.</p> <p>There is no definition of 'fit and proper' and this policy will help to ensure consistency when determining applications and other determinations such as when to suspend or revoke a licence.</p> <p>Whilst we may have a policy each application will still need to be determined on its own merits.</p> <p>Legally we are only allowed to charge a fee for the cost of administering the granting of the licence. Other Councils have been successfully challenged and have had to pay back fees to drivers and vehicle owners where they have charged more than this.</p>
Financial		<p>The policy does not have direct financial impacts on the authority. The proposed fees will have a marginal impact on income, if every driver decided to get a 3 year licence there would be a £756 budget pressure.</p> <p>However this pressure is offset by the other fees increasing for the first time since 2014.</p>
Risk		<p>A determination by a licensing authority to refuse, revoke or suspend a licence can be appealed as can conditions attached to a licence. An appeal is made to the magistrates.</p> <p>Failure to having made a determination that is defensible could lead to costs being awarded against us.</p> <p>As has been found across the country where the taxi trade has been implicated in criminal actions there has been a negative reputational impact on those licensing authorities. The proposed policy has been developed taking into account learning from these scandals and other good practice.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		<p>The policy will hopefully have a positive impact on equality and diversity by promoting good practice</p>

		in disability awareness amongst the taxi trade.
Safeguarding		The policy will hopefully have a positive impact on safeguarding by ensuring that an essential trade are well regulated, and drivers who have access to vulnerable children and adults are aware of the signs of abuse and how to report these.
Community Safety, Crime and Disorder		A positive impact by ensuring that drivers who have access to sensitive information about people and their homes are thoroughly vetted.
Health, Safety and Wellbeing		No overarching concerns foreseen
Other implications		None foreseen

### **Supporting Information**

#### **Appendices:**

Consultation feedback  
Draft Taxi Policy

#### **Background Papers:**

Taxi and PHV Licensing Councillors Handbook (England and Wales), Local Government Association

Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, Department for Transport, 2010.