

# Licensing Applications Committee

07 November 2023



**Reading**  
Borough Council  
Working better with you

<b>Title</b>	Hackney Carriage & Private Hire Convictions Policy
<b>Purpose of the report</b>	To make a decision
<b>Report status</b>	Public report
<b>Report author</b>	Mark Groves, Senior Licensing & Enforcement Officer
<b>Lead Councillor</b>	Councillor John Ennis, Lead Councillor for Climate Strategy and Transport
<b>Corporate priority</b>	Not applicable, but still requires a decision
<b>Recommendations</b>	<ol style="list-style-type: none"><li>1. That you consider the contents of this report.</li><li>2. That you consider the objections received.</li><li>3. That the updated Hackney Carriage and Private Hire Convictions Policy, as attached to the report at Appendix 1, be adopted.</li></ol>

## 1. Executive Summary

- 1.1. Under the terms of the Policing and Crime Act 2017 ('PCA') the Department for Transport (DfT) has introduced Statutory Taxi and Private Hire Vehicle Standards for hackney carriages (taxis) and private hire vehicles (PHVs). These standards were published in July 2020 and have been subsequently adopted by the Council.
- 1.2. As part of this review the Hackney Carriage and Private Hire Convictions Policy has been assessed and updated against the standards.
- 1.3. The Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 ('TPHVA') places a further duty on Licensing authorities to share, consider and act upon relevant information regarding safeguarding and road safety concerns about taxi and private hire drivers. Statutory guidance was issued under this Act on 27 April 2023.
- 1.4. This report sets out a proposal for the way in which these requirements are going to be implemented by the Council.
- 1.5. On 13 July 2023 at Licensing Applications Committee (LAC) it was resolved that the updated Hackney Carriage and Private Hire Convictions Policy, be published for consultation with the Hackney Carriage and Private Hire Vehicle trade, and that a further report be submitted to a future meeting of the LAC to adopt the final policy.
- 1.6. This is that further report.
- 1.7. The Hackney Carriage & Private Hire Convictions Policy is attached to the report at Appendix 1.
- 1.8. The Hackney Carriage & Private Hire Convictions Policy has been updated from the one that was presented to the Committee on 13 July 2023. The changes are small grammar alterations, and a link has also been added to better assist readers of the document. The changes are as follows:
  - Point 6 - "The bar has been raised" has been added – the adoption of the new Policy will result in the raising of the professional standards of our licensed drivers and operators.

- Point 12 - Removal of reference to Section 1 (1) of the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 as the policy relates to the whole of the document and not just section 1 (1).
- Point 16 - a link has been added to assist future readers with accessing the named Legislation with reference to section 1(1), 1(2) and 1(3).
- Points 27, 47 and 56 - have been changed with minor grammar and formatting alterations.

## **2. Policy Context**

- 2.1 The Council is responsible for licensing hackney carriage (taxis) and private hire drivers (PHV), vehicles, and private hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.
- 2.2 In July 2020 the Secretary of State for Transport published new Statutory Taxi and Private Hire Vehicle Standards to all licensing authorities. statutory taxi and private hire vehicle standards The Standards are aimed at safeguarding children and vulnerable adults. The standards were developed to set-out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable.
- 2.3 The Standards are the result of extensive consultation with the police, the trade, the Institute of Licensing, and others and sets out the approach that Licensing Authorities should adopt when carrying out their functions. Under s.177(4) of the PCA the council must have regard to this statutory guidance when undertaking its taxi and private hire vehicle licensing functions, it shall be followed unless there is a compelling local reason not to do so.
- 2.4 In addition, the Department for Transport (DfT) has published new statutory guidance for licensing authorities in England which is intended to help licensing authorities comply with their new duties under the TPHVA which came into effect on 31 May 2022. Again, under s.7 of the TPHVA, the council must have regard to statutory guidance that was issued on 27 April 2023.
- 2.5 The Council is required to review its taxi licensing policies and standards to ensure they meet the standards outlined in the legislation and guidance. All these requirements are in response to longstanding national concerns about public safety in this sector.

## **3. The Proposal**

- 3.1 A report asking the Licensing Applications Committee to adopt the Statutory Taxi and Private Hire Vehicle Standards and also to take into consideration the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 was presented on the 13<sup>th</sup> July 2023.
- 3.2 Following the Licensing Applications Committee meeting of the 13<sup>th</sup> July 2023 the committee resolved that a consultation should be carried out with all hackney carriage and private hire drivers along with all operators and the Chief Constable of Thames Valley Police.
- 3.3 The consultation commenced on the 2<sup>nd</sup> August 2023 and lasted for 28 days ending on the 3<sup>rd</sup> September 2023. There were 6 objections received by the licensing team to the new convictions policy during the consultation period.
- 3.4 The consultation was sent out to 1,351 drivers and 37 Private Hire and School Transport Operators who were also asked to ensure their drivers read the report. The 6 objections were from the hackney carriage trade, there were no responses received from either PH drivers or PH Operators or the Chief Constable of TVP. The percentage of the response was 0.44%.
- 3.5 The 6 objections are listed in the appendices as 2 to 7 respectively.

- 3.6. In view of these objections the licensing team have made contact with our neighbouring authorities being SODC, West Berkshire, Bracknell Forrest, and Wokingham with regards to this matter and what they have included in their convictions policy. The reply from SODC can be seen in **Appendix 8**, Wokingham are currently updating their policy and West Berkshire and Bracknell Forest did not reply.
- 3.7. Other Local Authorities outside of our neighbours have also been considered and the following has been added for information.
  - 3.7.1. Buckinghamshire Council – Have the same policy as SODC.
  - 3.7.2. Oxford City Council – Have the same policy as SODC.
  - 3.7.3. Gloucestershire County Council which comprises 6 local authorities being Gloucester City Council, Stroud District Council, Cheltenham Borough Council, Cotswold District Council, Forest of Dean District Council and Tewkesbury Borough Council along with South Gloucestershire Council all have the same policy as proposed by RBC.
- 3.8. Following the consultation period, the Licensing Applications Committee are asked to consider the objections received. The Committee is entitled to take them into due consideration and, following discussion, resolve to either adopt or amend the proposed Hackney Carriage and Private Hire Convictions Policy.

#### **4. Council Comments on Objections**

- 4.1. (ref. Appendix 2 - RTA objection) – This objection raises three points. The first of these is that an accusation is enough for someone to have their licence refused/revoked. This is not the intention of this policy. All accusations will be looked into and not taken on face value.

The second point is to say that 6 DVLA penalty points on a licence for motoring offences should not be taken into account. The Council consider this to be reasonable given that this is aimed at professional drivers who should be upholding the very best standards of care in their profession and adhering at all times to the highway code and rules of the road. If the DVLA award points on a driving licence for road traffic offences, then we consider this to be very relevant when considering the fit and proper test for the professional driver who should be upholding the very best standards whilst undertaking their activities. The policy gives some context around minor and major offences and is set to give some capacity for an accidental 3 point penalty to be accrued.

The third point is to say that as drivers use smartphone applications ‘apps’ and take payments on handheld devices they should not be subject to the element of the policy which has no tolerance for drivers using handheld devices whilst in operation of their vehicle. The Council position is that booking apps and payment devices whilst stationary or otherwise in accordance with road traffic laws are not at issue here. This policy is very clearly seeking to prevent drivers from using handheld devices while driving which is no more than the law requires currently.

- 4.2. (ref. Appendix 3 - Mr Anjum objection) – This objection is based on the premise that while a hackney carriage driver holds a driving licence (s)he should be able to carry on as a hackney carriage driver: “I find it unfair if a taxi badge revoked because of points awarded”. Our contention is that we hold hackney carriage drivers to a higher standard, and therefore have our agreed penalty points system in place for breaches of our conditions, as well as consider DVLA awarded penalty points for driving offences to ensure hackney carriage drivers maintain the very highest standards of conduct for the safety, security and trust of customers. The public expect us to regulate the behaviour and performance of drivers.
- 4.3. (ref. Appendix 4 - Mr Ditta Objection) – The salient points of this objection relate to not wanting the DVLA 6 penalty points to count, and suggesting drivers have video recording equipment. We consider the DVLA penalty points system for road traffic

offences to be a valid criteria for our consideration and a limit of 6 points allows for one transgression before it meets a level, we consider unacceptable for a professional, experienced driver entrusted in the care of passengers whose safety we give the highest regard to. The video recording equipment is something we are giving further consideration to, in regard to whether internal/external CCTV becomes mandatory. We are not placing that additional burden on vehicle owners/operators at this time but the point is noted.

- 4.4. (ref. Appendix 5 - Mr Rafiq objection) – The first aspect to this objection relates to the fact that the bar is now being raised. This is due to the changes in legislation and the adoption of the new statutory standards, and remains in our view a positive move for safeguarding and safety reasons.

The next element of this objection is again on the 6 DVLA penalty points already covered above.

The third point is that the penalty relating to hand-held devices is considered too harsh. On this we have no room for manoeuvre as the minimum expected must be the legal position not to use handheld devices whilst driving, and if we aspire for a better position than the legal bare minimum as we are licensing professional drivers then we can hardly be seen to condone the use of handheld devices at the wheel.

- 4.5. (ref. Appendix 6 - Mr Sajid objection) – This objection is mainly asking us not to make life difficult for drivers. There is a balance which needs to be struck between drivers being able to operate (fairly, legally and with the highest standards of professionalism) against our corporate responsibility towards protecting our residents and visitors using their services as we are the licensing authority. This point is noted however it must be understood that we are attempting to raise standards which will provide greater consumer confidence and enhance the trust and reputation of the trade licensed by us.
- 4.6 (ref. Appendix 7 - Mr Shahzad objection) – This objection is again in relation to the DVLA 6 penalty points issue as already discussed above.

## **5. Contribution to Strategic Aims**

- 5.1. The legislation primarily aims to protect and enhance the safety of Hackney Carriage and PHV passengers, safeguarding children and those most vulnerable.
- 5.2. Through implementing these requirements, this will ensure the council has an effective regulatory framework, working collaboratively with other agencies and authorities to administer and enforce statutory and local requirements and ensuring the highest standards are met. This will benefit both the trade and customers and will contribute to the following priorities in the Corporate Plan:
- Thriving Communities – by ensuring the Hackney and PHV sector remains integrated into our sustainable transport network and the sector is safe and trusted; passengers are confident in using the services and vehicles are modern and accessible.
  - Inclusive Economy - Taxis and PHVs are one of the most flexible elements of the transport system operating 24/7 on a commercial basis. They are integral to supporting local businesses to thrive by transporting residents and visitors around the Borough. The services are a primary mode of passenger transport for many people for whom mainstream public transport is not an option or suitable. Hackney's and PHV's help support many disabled and vulnerable people to live more independent lives. They also play an important part in supporting the night-time economy, providing a safe and secure mode of transport for many people home.

## **6. Environmental and Climate Implications**

- 6.1. There are no environmental or climate implications arising from the decisions in this report. The council has a duty to adopt the requirements of the legislation which are aimed to enhance safety in the Hackney Carriage and Private Hire Vehicle sector.

## **7. Community Engagement**

- 7.1. A consultation exercise was conducted with both the HC and PH trades and the Chief Constable of Thames Valley Police on the proposed Hackney Carriage and Private Hire Convictions Policy.

## **8. Equality Implications**

- 8.1. Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to:
- eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2. The Council will undertake an equality impact assessment scoping exercise on the projects included within the recommendations where applicable and at the appropriate stage of development. For example, with regard to the introduction of an English proficiency test.

## **9. Other Relevant Considerations**

- 9.1. N/A

## **10. Legal Implications**

- 10.1. Section 177(4) of the Policing and Crime Act 2017 enables the Secretary of State to issue guidance to Licensing Authorities as to how their taxi and private hire vehicle licensing functions shall be exercised so as to protect children and vulnerable adults and requires authorities exercising their licensing functions to have regard to it. Licensing Authorities have a legal duty to have regard to the minimum standards – this means that the Authority must take the standards into account and must give clear and compelling reasons for any departure from them.
- 10.2. The powers to grant or renew, hackney carriage and private hire vehicle driver and operator licenses are contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 10.3. In respect of the grant of a licence to drive hackney carriage and private hire vehicles, you may refuse on the grounds that the applicant is not a fit and proper person to hold such a licence or has not held a full driving licence for at least twelve months.
- 10.4. In respect of the grant of a private hire operator licence, you may refuse on the grounds that the applicant is not a fit and proper person to hold such a licence.
- 10.5. In respect of renewal, revocation or suspension of a licence to drive hackney carriage and private hire vehicles, you may refuse to renew or may revoke or suspend a licence on the grounds that since the grant of a licence: (a) the applicant has been convicted of an offence involving dishonesty, indecency or violence; (b) the applicant has been convicted of an offence or failed to comply with the legislation controlling the private hire vehicle trade; (c) any other reasonable cause.
- 10.6. In respect of the renewal, revocation or suspension of a private hire operator licence, you may refuse to renew or may revoke or suspend a licence on the grounds that since the grant of a licence: (a) any offence under, or non-compliance with, the provision of this Part of this Act. (b) any conduct on the part of the operator, which appears to the district council to render him unfit to hold an operator's licence. (c) any material change since the licence was granted in of the circumstances of the operator on the basis of which the licence was granted. (d) any other reasonable cause.

10.7. An applicant aggrieved by the refusal, refusal to renew suspension or revocation of a licence may appeal to the Magistrates' Court.

## **11. Financial Implications**

11.1. There are no legal costs in respect of this report.

## **12. Timetable for Implementation**

12.1. The new Hackney Carriage and Private Hire Convictions Policy will take immediate effect following the adoption by the Licensing Applications Committee.

## **13. Background Papers**

13.1. There are none.

## **Appendices.**

1. Hackney Carriage & Private Hire Convictions Policy
2. Objection from the RTA
3. Objection by Mr Anjum
4. Objection by Mr Ditta
5. Objection by Mr Rafiq
6. Objection by Mr Sajid
7. Objection by Mr Shahzad
8. SODC Conviction Policy points 4.19, 4.42 & 4.43 (As attached)