

Title of meeting: LICENSING COMMITTEE - 25 JULY 2022

Subject: Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Matters - Amendments to Adopted Statement of Licensing Policy

Report by: DIRECTOR OF CULTURE, LEISURE AND REGULATORY SERVICES

Wards affected: ALL

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 To consider proposed amendments to the adopted statement of licensing policy for the control and supervision of the hackney carriage and private hire trades within Portsmouth ("the PCC policy")
- 1.2 To note and implement, where necessary, changes to the PCC policy having regard to the statutory Taxi and Private Hire Vehicle Standards guidance issued by the Secretary of State for Transport in July 2020
- 1.3 To submit the proposed policy amendments for trade and public consultation between the period 01 August and 30 September 2022.
- 1.4 To reconvene at a future date to consider all responses received.

2. Recommendations

- 1) That the Licensing Committee notes and approves the contents of the report and appendices and delegates authority to the Head of Service to arrange for the formal distribution and consultation on any agreed proposed amendment to the PCC policy and for responses to be received between 01 August and 30 September 2022.
- 2) That the committee agree to meet on a future date after 30 September 2022 to consider any policy amendments (in light of and having regard to any representations received) and with a view to agree an implementation date for the policy and any approved changes.
- 3) That the committee note / approve the use of the existing penalty points system and other delegated powers to enforce the requirement that PCC prescribed livery must be displayed on licensed vehicles as set out in paragraph 3.4 of the report.

3. Background

- 3.1 On 24 February 2016, the Licensing Committee considered and approved its Statement of Licensing Policy (minute 09/2016 refers). This decision was subsequently approved by full Council on 22 March 2016 (minute 27/2016 refers).
- 3.2 Full Council delegated approval to the Licensing Committee to retain overall responsibility for the policy, to include any future amendments, variations, substitutions or deletions as may be required and after appropriate consultation.
- 3.3 Subsequent ad hoc changes/variations to the policy have been considered and approved by the committee on merit (and after trade consultation) between 2016 and 2020 in so far as this relates to:
- Licensed vehicle age limits
 - The use of magnetic livery on licensed vehicles
 - The use of operator signage
 - The Task & Finish Group report on taxi and private hire licensing and the subsequent government response
 - The draft DfT consultation on statutory taxi and private hire matters
 - The Equality Act 2010 relating to wheelchair accessible vehicles (WAV'S)
 - Proposals to support the Portsmouth Clean Air Zone (CAZ)
- 3.4 The Licensing Committee previously considered this report on [16 December 2021](#) but rejected the report and recommendations due to having concerns in relation to the proposal that magnetic PCC livery on licensed vehicles should be prohibited. This particular aspect of the consultation and the associated recommendation has, accordingly, now been removed from the report and consultation.

It is proposed that the Licensing Service will, instead, use the existing penalty points system and other delegated powers to enforce the requirement that PCC prescribed livery must be displayed on licensed vehicles in a stepped approach as follows:

- 1st breach of condition - 4 points awarded against the driver and proprietor (as per current policy requirements)
- 2nd breach of condition - 6 points awarded against the driver and proprietor
- 3rd breach of condition - Withdrawal of permission for magnetic livery and requirement that it be replaced with permanent adhesive livery
- Any further breaches will incur consideration of the suspension of driver licences and ultimately revocation of a driver's licence if non-compliance continues

It should also be noted that in those circumstances where the vehicle bodywork is of a type that prevents the magnetic signage being sufficiently effective or renders it non-adhesive, then only prescribed permanent adhesive livery will be issued / acceptable for the licensed vehicle.

- 3.5 The Secretary of State for Transport published statutory best practice guidance for taxi and private hire vehicle standards in July 2020. This is reproduced at **Appendix A** and puts, on a formal footing, the expected standards to both initially ensure and to consequently maintain public safety. The council, as the local licensing authority, has a legal duty pursuant to section 177 of the Police & Crime Act 2017 to "have regard" to the statutory standards. The guidance states that the expectation is that the recommendations are implemented "unless there is a compelling local reason not to" (see paragraph 1.3 of the guidance).

The Committee has previously been advised that the PCC policy is, in the main, compliant with the statutory standards now expected but there are some areas that require further consideration as shown in the recommended changes at **Appendix B**.

A copy of the Institute of Licensing (IOL) guidance on the suitability of applicants and licensees in the hackney and private hire trades is attached as **Appendix C**.

4. Reasons for recommendations

- 4.1 Statutory guidance makes it clear that taxis and private hire vehicles can be high risk environments and steps must be taken to secure the safety of children and vulnerable adults (as well as the wider public). Accordingly, it is necessary to consider and approve appropriate and proportionate changes to the current PCC policy having regard to:

- The Statutory Guidance now in force
- Representations from trade representatives, operators, vehicle proprietors and drivers together with any public or professional body responses
- Representations from those dealing with children or the vulnerable
- Representations from the general public
- Proposed amendments submitted by your reporting officer together with an emphasis on "streamlining" work processes where applicable - for example recommending the use of "on line" DBS checks

5. Equality impact assessment

An Integrated Impact Assessment has been prepared and is attached as **Appendix D**.

6. Legal implications

The legal implications are embodied within the review document at **Appendix B**.

7. Finance comments

None applicable directly to this report and proposed recommendations but guiding principles for "Fees and Charges" are contained within chapter 16 of the adopted PCC policy document.



.....
Signed by:

Appendices:

- A) DfT Statutory Taxi & Private Hire Vehicle Standards - July 2020
- B) Proposed recommended changes/additions/substitutions to the policy for public and trade consultation as recommended by your reporting officer
- C) Institute of Licensing (IOL) guidance on the suitability of applicants and licensees in the hackney and private hire trades
- D) Integrated Impact Assessment

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Adopted Statement of Licensing Policy effective April 2016 as amended	PCC Website at: https://www.portsmouth.gov.uk/wp-content/uploads/2020/05/hackney-carriage-private-hire-licensing-policy-final-v3.pdf
Statutory Taxi & Private Hire Vehicle Standards - July 2020	https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards
LGA Taxi & Private Hire Licensing - Councillor Handbook - July 2021	https://www.local.gov.uk/publications/councillor-handbook-taxi-and-phv-licensing-2021
Institute of Licensing (IOL) guidance on the suitability of applicants and licensees in the hackney and private hire trades	Guidance on Suitability Web Version (16 May 2018).pdf (instituteoflicensing.org)
Town Police Clauses Act 1847	Published Statute
Part II, Local Government (Miscellaneous Provisions) Act 1976	Published Statute
Equality Act 2010	Published Statute

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

.....
 Signed by: