

Title of meeting: LICENSING COMMITTEE - 24 February 2023

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 the responses to the public consultation which took place between the period 01 August and 31 October 2022.
- 1.2 To consider the 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") as set out in Appendix A of this report, having regard to the statutory Taxi and Private Hire Vehicle Standards guidance issued by the Secretary of State for Transport in July 2020.

2. Recommendations

- 1) **That the Licensing Committee considers the recommendations numbered (1) to (37) in the report attached as Appendix A and duly notes/determines amendments to the PCC policy as it considers appropriate.**
- 2) **That the amendments to the policy will come into effect on 1 April 2023.**

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.

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)

3.3 The Licensing Committee previously considered this matter at its meeting on [25 July 2022](#) and approved the formal distribution and public consultation of the proposed amendments to the PCC policy.

It also agreed to meet on a future date 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.

3.4 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 B** 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 and determination as shown in the recommended changes at **Appendix A**.

4. **Public Consultation - Key Facts**

4.1 Public consultation took place in relation to the proposed recommendations between 1st of August and 31st of October 2022. The consultation was undertaken by way of an online survey. Emails were sent to all licensed hackney carriage and private hire drivers, vehicle proprietors, trade representatives, lease car companies and private hire operators.

In addition notification of the survey was also given to members of the public, other local licensing authorities, councillors and MP's for the city.

4.2 A copy of the data and responses to the consultation are attached as **Appendix C** to this report but key facts arising from this consultation are highlighted below:

- 390 responses received in total
- 74% (290) response from members the public
- 10% (39) response from hackney carriage drivers
- 4% (16) response from hackney carriage vehicle proprietors
- 8.9% (9%) response from private hire drivers
- 0% response from private hire vehicle proprietors
- 0.77% (3) response from private hire operators
- 0.26% (1) response from trade representatives
- 0% response from licensed vehicle leasing companies

4.3 In overall terms, those who responded to the survey agreed with the recommendations as set out in the report considered by the Committee in July 2022.

4.4 The question which elicited most responses related to the proposed recommendation to extend the upper age limit for wheelchair accessible vehicles (WAVs) from 8 years of age to 12 years of age.

Whilst the overall view was supportive of the proposal, many responses were received, presumably from licensed drivers and hackney vehicle proprietors, that the amendment to the policy should apply to all licensed vehicles, not just WAV vehicles.

4.5 Having due regard to the views expressed, the recommendation in relation to the upper age limit for licensed vehicles has now been amended to reflect an increase from 8 years to 12 years for all licensed vehicles not just WAVs. This recommendation also includes measures for licensing staff, in consultation with the council's approved vehicle examiner, to target and intervene in respect of those vehicles which are not maintained to a satisfactory standard. Further information as regards this recommendation is embedded in **Section 10 of Appendix A** to this report.

4.6 Further amendments to the original recommendations have been made in relation to criminal convictions and rehabilitation. Again, the survey responses supported the guidelines proposed by the statutory guidance in relation to the relevance of convictions and therefore it is proposed that these guidelines are adopted as set out in Section 5 (Appendix B) of the recommendations document attached as **Appendix A** to this report.

However, there are additions to these guidelines which are proposed to be retained from the current policy on the relevance of convictions and behaviour.

These relate to any offences committed under the statutory licensing regime (i.e. byelaws or breach of conditions) which are not covered in the statutory guidance recommendations and, additionally, dealing with general inappropriate conduct which does not result in a conviction.

Finally, arising from the results of the consultation process, amendments have been made to recommendation number (10) which relates to licensee self-reporting. The current policy for PCC is that licence holders are required, by way of condition and policy, to notify the Council within 24 hours of any arrest, detention or charges against them. The statutory guidance recommends that such notifications should be made within 48 hours. Having regard to the representations received, it is proposed that the recommendation is amended in order to retain the current policy of 24 hours, or the next working day.

5. **Reasons for recommendations**

5.1 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

6. **Equality impact assessment**

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

7. **Legal implications**

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

8. **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)** Proposed recommendations for the amendment of the current hackney carriage and private hire statement of licensing policy
- B)** DfT Statutory Taxi and Private Hire Vehicle Standards - July 2020
- C)** Summary of Responses to the Formal Consultation
- 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
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: