

## CAMBRIDGE CITY COUNCIL

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REPORT OF: Head of Refuse and Environment

TO: Licensing Committee

24/10/2011

WARDS: All

### **HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY**

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#### **1 INTRODUCTION**

- 1.1 The Council is responsible for the licensing of Hackney Carriage and Private Hire vehicles, drivers and operators within Cambridge City. The Council has traditionally exercised this responsibility through a number of different policies and procedures that have developed over a number of years.
- 1.2 Due to changes in service delivery with the Customer Service Centre and best practice guidance from the Department for Transport in March 2010 on Taxi and Private Hire Vehicle Licensing, a full review of the policies was considered necessary. This resulted in a new draft Hackney Carriage and Private Hire Licensing Policy, which is attached as Appendix A to the report.
- 1.3 The policy was formulated in line with the Council's vision statement and in particular the Council's vision of a city:
  - that is in the forefront of low carbon living and minimising its impact on the environment from waste and pollution; and
  - whose citizens feel they can influence public decision making and are equally keen to pursue individual and community initiatives
  - where people behave with consideration for others and where harm and nuisance are confronted wherever possible without constraining the lives of all
- 1.4 On 6 June 2011, the Licensing Committee considered the draft policy and resolved:  
*to approve the consultation of the draft policy and process in order to adopt a final taxi licensing policy.*

- 1.5 The draft policy was subject to 12 weeks public consultation in accordance with the HM Government's Code of Practice. This took place between 20 June 2011 and 11 September 2011. In addition to information being sent to the various consultees as listed in Appendix B, six consultation meetings were held to allow the licensed trade and members of the public to attend and obtain clarification on the proposed policy and respond to the consultation in person.
- 1.6 The consultation responses are contained in the table attached as Appendix C to the report. It should be noted that comment 54 was received after the end of the consultation period. All comments have been considered and incorporated, where appropriate, in to the redrafted policy that is attached to the report as Appendix D. The table of consultation responses identifies which comments have been incorporated in to the redrafted policy and which have not, and additionally where comments have not been incorporated in to the redrafted policy, the reasons for this.
- 1.7 Throughout the redrafted policy reference is made to the "Taxi Guide". This is an operational guide for Officers and also provides advice to new applicants and existing Licence holders on matters such as application procedures and disciplinary hearings. The "Taxi Guide" is attached to the report as Appendix E.
- 1.8 Reference is also made in the policy to a demand survey. At the request of the trade, the Council will engage an external company (yet to be appointed) to carry out a demand survey. Subject to agreement with the licensed trade, it is proposed that this survey will investigate whether the demand for licensed Hackney Carriages is met by the current licensed fleet and additionally the survey will cover the accessibility of Hackney Carriages and also rank space. The results of the demand survey will be reported for consideration by Members at a future meeting and information relating to the provision of taxi ranks within the district will be referred to the County Council for consideration.

## 2. **RECOMMENDATIONS**

Members are recommended:

- 2.1 To note the content of the report and adopt the draft attached as Appendix D to the report as Cambridge City Council's Hackney Carriage and Private Hire Licensing Policy with immediate effect.

- 2.2 To note the contents of the "Taxi Guide" (Appendix E) and to delegate authority to the Head of Refuse and Environment to make any future amendments to the "Taxi Guide".
- 2.3 To agree the purpose of the demand survey is to establish whether or not the current Hackney Carriage fleet meets the demand for the services of Hackney Carriages within the district and additionally to cover accessibility issues and the provision of ranks within the Council's district.
- 2.4 To agree in principle the introduction to an enforcement management system and to request Officers to develop a system that will be subject to consultation and brought back to a subsequent licensing committee for Member approval

### 3. **BACKGROUND**

- 3.1 The Hackney Carriage and Private Hire Vehicle Licensing policy has been drafted to set out the policy that the Authority will apply when making decisions about new applications and licences currently in force. It is intended to ensure that both the trade and the public have a document that fully explains the licensing procedures to all parties in a clear and transparent manner. On coming in to effect, the document will override and supersede all existing Council policy and guidance in relation to Hackney Carriage and Private Hire Licensing.
- 3.2 Section 6.2 of the policy provides that the policy will be effective for a maximum of 5 years, but will be kept under constant review. Reference is made to the Law Commission review in 2011 / 12. The Government's Transport Committee held a short inquiry into issues relating to the licensing of taxis and private hire vehicles including cross-border hire and problems caused by private hire vehicles picking up passengers on a large scale outside of the area in which they are licensed. A report was subsequently published on 19 July 2011 and in conclusion, the Committee *"call[ed] on the Government to set out its policy proposals before the end of the year, with a view to holding a consultation exercise in 2012, introducing draft legislation in 2013-14 and taking an Act or legislative reform order through Parliament before the next general election."*
- 3.3 Additionally, the Law Commission is undertaking a project to *"examine the legal framework relating to taxis and Private Hire Vehicles with a view to making it simpler and more modern. [The Commission aims] to publish proposals for reform in June 2012. This*

*will be followed by a three month consultation period where [the Commission will] invite the public to respond to [their] proposals. [They] plan to publish a final report with recommendations and draft bill by mid-2014.*” The Hackney Carriage and Private Hire Licensing Policy will be reviewed in light of any legislative changes following the Government review.

- 3.4 Following the consultation process, the comments received were considered and incorporated, where appropriate, in to the redrafted policy (Appendix D). This section of the report identifies the parts of the redrafted policy that have been amended and the reasoning for those amendments. Any reference to the policy in this section of the report is to the redrafted policy (Appendix D).
- 3.5 Section 9.0 of the policy refers to limitation on the number vehicles licensed. There is currently no limit on the number of Hackney Carriages that will be licensed by the Council. However, following a request from the trade, it has been agreed to carry out a demand survey to establish whether there is no significant demand for the services of Hackney Carriages that is unmet. If this is the case, the Council may consider implementing a limit in accordance with section 16 of the Transport Act 1985, such that any applications for new licences to be granted in respect of Hackney Carriages may be refused for the purpose of limiting the number of Hackney Carriages if, but only if, the Council is satisfied that there is no significant demand for the services of Hackney Carriages that is unmet.
- 3.6 Additionally, it is intended that the demand survey will cover accessibility and the provision of Hackney Carriage ranks within the Council’s district. The company appointed to carry out the survey will consult with relevant stakeholders that will include the licensed trade, disability access groups and the general public. The results of the demand survey will be report to a future Licensing Committee meeting for consideration and the content of the report will be presented to the County Council for consideration as the body responsible for the designation of taxi ranks within the district.
- 3.7 Section 9.3 of the policy refers to the Equality Act 2010. There is currently no statutory definition of, or set requirements for, wheelchair accessible vehicles, and there is no statutory requirement for a set proportion of the licensed Hackney Carriage fleet to be wheelchair accessible. However, section 160 of the Act provides that the Secretary of State may make regulations (“taxi accessibility regulations”) for securing that it is possible for disabled persons to get in to and out of a taxi safely, whilst in a wheelchair, and to travel

in safety and reasonable comfort whilst remaining in the wheelchair. Further to this, section 161 of the Act provides that the Secretary of State may prescribe that a specific proportion of the Hackney Carriages licensed by a district council must conform to the taxi accessibility regulations. Should a limit be imposed on the number of Hackney Carriages licensed by the Council following consideration of the results of the demand survey and should that limit mean that the proportion of licensed Hackney Carriages that comply with any taxi accessibility regulations (that may be made) is less than the proportion that may be specified by the Secretary of State, then in accordance with section 161(2) of the Equality Act 2010, the limit imposed by the Council pursuant to section 16 of the Transport Act 1985 would not apply and could not be used as grounds to refuse to license the vehicle.

- 3.8 Section 10.4 of the report refers to the standard of vehicles that the Council will license as Hackney Carriages and Private Hire vehicles. Reference has been made to the UK National Small Series Type Approval and the Individual Vehicle Approval schemes. As of 29 April 2009, the M1 Low Volume Type Approval scheme has been replaced by the UK National Small Series Type Approval scheme and the Single Vehicle Approval (SVA) scheme has been replaced by the Individual Vehicle Approval (IVA) scheme. The policy has therefore been amended to reflect this change for vehicles manufactured post April 2009.
- 3.9 Section 11.0 of the policy refers to accessibility and specifically focuses on Hackney Carriages. As outlined at 3.6 above, it is intended that the demand survey will cover accessibility. In the absence of a statutory definition of an “accessible taxi” it is proposed that the survey will invite disabled persons to comment on their ability to access and travel in the Hackney Carriages licensed by Cambridge City Council. As a result of this, the accessibility requirements of licensed vehicles as outlined in the policy may be brought back for to Members for approval.
- 3.10 Section 11.7 of the policy refers to the securing of wheelchairs, such that licensed drivers may not allow wheelchair passengers to travel sideways in their wheelchair. However, in light of responses to the demand survey, it may be necessary to consider lifting this restriction to allow passengers to travel sideways in their wheelchair where it is not possible to turn the wheelchair once in the vehicle. This is assuming that the wheelchair can be sufficiently secured in the vehicle. Additionally, review of this stipulation may be necessary in light of regulations that may be made by the Secretary of State under

section 160(3)(b) of the Equality Act 2010 regarding the positioning of wheelchairs in vehicles.

3.11 Section 11.3 of the policy again refers to the Equality Act 2010. The Secretary of State may make regulations under section 160(1) of the Act that, in accordance with section 160(2) of the Act, may in particular stipulate:

- the size of a door opening for the use of passengers;
- the floor area of the passenger compartment;
- the amount of headroom in the passenger compartment;
- the fitting of restraining devices designed to ensure the stability of a wheelchair while the taxi is moving.

The statutory requirements of accessible taxis, in light of such regulations, would be provided in the taxi guide.

3.12 In section 14.4 of the policy, the requirement for the roof sign to be replaced when the vehicle is used again as a “*licensed vehicle*” has been replaced with “*for hire and reward*” to provide clarity because once a Hackney Carriage is licensed, it is deemed a licensed vehicle 24 hours a day as established in *Hawkins v Edwards* [1901] and *Yates v Gates* [1970].

3.13 Section 14.6 of the policy refers to advertising and whilst the requirements for advertising have not changed, the section has been reworded in light of concern over confusion of meaning.

3.14 Section 15.1 of the policy stipulates that Cambridge City Council Hackney Carriage Crests are attached to both the nearside and offside front doors of the vehicle. This is current practice but was not included in the policy. It therefore has been inserted to provide clarity on the positioning of the crests.

3.15 Section 16.0 refers to driver safety and recognises that CCTV is an effective way of reducing risks. Whilst the installation of CCTV within a licensed vehicle is left to the discretion of the proprietor of the vehicle, it is considered that conditions should be attached to the vehicle licence if CCTV is installed that may regulate, for example, the location of cameras, the storage and access to footage, and CCTV signage within the vehicle. This has been inserted in to section 17.4 of the policy.

3.16 Section 12.4 of the policy refers to the National Vehicle Standards that will be used in addition to local byelaws and Council Licence conditions to determine whether a vehicle is in a suitable mechanical condition to be licensed by the Council. These standards are

contained in the Hackney Carriage and Private Hire Vehicle National Inspection Standards, which is a best practice guide produced by the Hackney Carriage and Private Hire Inspection Technical Officer Group published in August 2011. This is attached to the report as Appendix F for reference.

- 3.17 Section 23 of the policy refers to Environmental Consideration. In the proposed policy consideration was made to the sliding scale for CO2 emissions, however following the consultation, there was much objection to this, however there was a unanimous view that the environment needed to be considered. The policy has been amended to introduce an air quality emissions standard that is a legal requirement from Europe for all newly manufactured motor vehicles.
- 3.18 The European Union has introduced stricter limits on pollutant emissions from light road vehicles, particularly for emissions of nitrogen oxides and particulates.
- 3.19 In order to limit pollution caused by road vehicles, this Regulation introduces common requirements of emissions from motor vehicles (Euro 5 and Euro 6 standards)
- 3.20 The chart below indicates the progress of improvements on air quality that each of the standards have made as the Euro Standards have been implemented

	Date	Nox G/km	PM G/km
Euro 1†	July 1992		0.14
Euro 2	January 1996		0.08
Euro 3	January 2000	0.50	0.05
Euro 4	January 2005	0.25	0.025
Euro 5	September 2009	0.180	0.005
Euro 6	September 2014	0.080	0.005

- 3.21 Cambridge City has declared an Air Quality Management Area (AQMA) in 2004 because of the predicted levels of nitrogen oxide. An AQMA is an area identified by Local Authorities where the statutory UK air quality objectives are being, or are expected to be breached

up to the end of 2005, AQMAs are areas where levels of air pollution are higher than they should be ( as defined by central government).

- 3.22 Levels of nitrogen dioxide in central Cambridge remain above the National Objectives; therefore an Air Quality Action Plan was first adopted in 2005 and a more comprehensive version adopted in 2010.
- 3.23 To support the Councils Air Quality Action Plan, the policy is requiring all new Hackney Carriage and Private Hire vehicles applying to license to meet the Euro 5 standard as a minimum.
- 3.24 The policy had been amended not to have a minimum age but will continue to have the maximum age of 8 years
- 3.25 The term 'new' in the policy means any vehicle that is being licensed for the first time or where a license is issued on a particular vehicle and then surrendered and subsequently the same license is issued on another vehicle.
- 3.26 The chart below gives an age profile of the vehicles that are currently licensed by Cambridge City Council.

Euro	Year of Manufacture	No. of vehicles	8 years expiry	Next renewal minimum standard
2	2002	1	10/11	4
3	2003	17	11/12	4(9) 5(8)
3	2004	52	12/13	5
4	2005	66	13/14	5
4	2006	95	14/15	5
4	2007	108	15/16	5
4	2008	87	16/17	6
4	2009	20	17/18	6
5	2009	16	17/18	6
5	2010	31	18/19	6
5	2011	12	19/20	6

- 3.27 By applying this air quality standard that will mean by 2017/18 all fleet licensed by Cambridge City Council will be to Euro 5 or 6 standard
- 3.28 Section 24.2 of the policy refers to limousines and the requirement for the vehicle to undergo a Single Vehicle Approval test, which was

replaced on 29 April 2009 by the Individual Vehicle Approval scheme. This is now reflected in the policy.

- 3.29 Section 25.0 of the policy makes reference to certain public transport vehicles that do not fall within the definition of a Private Hire Vehicle as provided by section 80 of the Local Government (Miscellaneous Provisions) Act 1976 and reference is made to the Department for Transport's guidance note "Private Hire Vehicle Licensing". This provides guidance to Local Authorities to assist in determining whether a vehicle is being used for private hire purposes and will be used for reference by the Licensing section.
- 3.30 Section 30.1 of the policy refers to the duration of Hackney Carriage and Private Hire Driver Licences. Section 53(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a licence shall remain in force for a period of 3 years or for such lesser period of the Council may specify and currently Licences are granted for a maximum of 1 year. The Department for Transport in their guide to Local Authorities "*Taxi and Private Hire Vehicle Licensing: Best Practice Guide*" provide that issuing a Licence for 1 year places an undue burden on drivers and licensing authorities alike. The consultation responses also reflect this. The policy has therefore been amended to allow the option for either a 1 year or a 3 year Licence to be granted to those drivers who have been licensed by Cambridge City Council for at least 1 year.
- 3.31 Section 32.0 of the policy refers to the Criminal Records Bureau and applications that are made to the CRB for enhanced disclosures. A review of the criminal records regime, which is aligned to the review of the vetting and barring scheme, is being carried out by the Government. This section of the policy will therefore be subject to review in light of the Government review.
- 3.32 Section 34.0 of the policy refers to the knowledge testing that is carried out as part of the application procedure for a drivers licence. In March 1992, the Environmental Health and Protection Committee approved a recommendation that applicants for a new taxi driver licence undertake a written knowledge test of Cambridge and the surrounding areas. In March 1993, the Environmental Health and Protection Committee approved a recommendation that applicants for Private Hire driver licences undertake the same written knowledge test as those for Hackney Carriage driver licences and that the pass mark would be 80%. It is recommended that in addition to new applicants demonstrating knowledge of the rules and regulations governing the relevant licence and also knowledge of the local area,

that they demonstrate as part of the test that they are able to communicate with their customers using basic English (as a minimum) and that they have basic numeracy skills. This has been incorporated in to the policy. It is intended that the test will be administered electronically with questions being selected at random from a question bank. Each test paper will therefore be unique.

3.33 Section 45.0 of the report refers to enforcement action that will be carried out by the Licensing section. Reference is made in section 45.3 to an enforcement management system. This is intended to be an operational guide for Officers when dealing with complaints and certain offences to enable Officers to determine when a licensed driver will receive a warning letter, when a driver will be interviewed by an Officer of the Licensing section and when a driver will be referred to the Licensing Sub-Committee with a view to revoking or refusing to renew a Licence. Whilst it is an operational guide for Officers, details of the system will be provided in the taxi guide so that a fair and open system is administered and the licensed trade will be aware of what to expect from the Council in terms of enforcement action. The Council expects high standards from licensed drivers and it is considered that an open enforcement policy will reduce driver misconduct.

3.34 It is proposed that the enforcement management system will be used in relation to:

3.34.1 complaints against a Licence holder's conduct (including standard of driving);

3.34.2 minor traffic offences witnessed by an Officer of the Licensing section;

3.34.3 breaches of Licence conditions;

3.34.4 breaches of the statutory obligations provided by the Hackney Carriage and Private Hire licensing regime that may or not have been enforced by the Council through the Courts.

An example of the enforcement management system is attached to the report as Appendix G. The enforcement management system will be subject to consultation brought back to a subsequent Licensing Committee for Members' approval and it is intended that it will form part of the taxi guide.

3.35 Any further amendments to the draft policy are minor amendments such as the reorganising and renumbering of sections.

#### **4. CONSULTATIONS**

- 4.1 The draft policy that was approved by Members on 06 June 2011 to undergo consultation is attached as Appendix A. Consultation was carried out between 20 June 2011 and 11 September 2011 with those consultees listed in Appendix B and additionally, members of the public and the licensed trade as a whole. Part of the consultation process involved six open meetings where the licensed trade and members of the public could obtain clarification on the draft policy and put forward their comments in person.
- 4.2 The redrafted policy (Appendix D) has been subject to consideration and comment by the Legal section of Cambridge City Council.

## **5. OPTIONS**

- 5.1 With regard to the proposed Hackney Carriage and Private Hire Licensing Policy, and in light of the information contained in the consultation responses (Appendix C), the Licensing Committee may
- i) Adopt the policy that is attached to the report as Appendix D as Cambridge City Council's Hackney Carriage and Private Hire Licensing Policy with immediate effect.
  - ii) Make any changes that are considered necessary to the draft policy that is attached as Appendix D and adopt this as Cambridge City Council's Hackney Carriage and Private Hire Licensing Policy with immediate effect.
  - iii) Decide not to adopt a Hackney Carriage and Private Hire Licensing Policy.
- 5.2 With regard to the "Taxi Guide" attached to the report as Appendix E, the Licensing Committee may:
- i) Note the contents of the guide and delegate authority to the Head of Refuse and Environment to make any future amendments to the "Taxi Guide".
  - ii) Note the contents of the guide but require any amendments to this operational guide to be referred to the Committee for consideration.
- 5.3 With regard to the demand survey, the Licensing Committee may:
- i) agree the purpose of the demand survey is to establish whether or not the current Hackney Carriage fleet meets the demand for the services of Hackney Carriages within the district and additionally

to cover accessibility issues and the provision of ranks within the Council's district.

- ii) agree the purpose of the demand survey is to establish whether or not the current Hackney Carriage fleet meets the demand for the services of Hackney Carriages within the district and additionally specify what other matters shall be covered by the survey.

5.4 With regard to the enforcement management system, the Licensing Committee may:

- i) approve the principle of the enforcement management system and to request Officers to develop a system that will be subject to consultation and brought back to a subsequent licensing committee for Member approval
- i) decide not to approve the principle of the enforcement management system and continue with the enforcement systems that are currently in place

## **6. CONCLUSIONS**

6.1 Cambridge City Council has a duty to ensure that it administers a fair and open system for the licensing of Hackney Carriage and Private Hire vehicles, drivers and operators, where public safety is paramount. The adoption of a policy for Hackney Carriage and Private Hire Licensing will clearly show how the Council will carry out its statutory obligations in the administration and enforcement of these authorisations.

6.2 The conduction of the demand survey will allow the Council to consider the concerns that have been raised by the licensed Hackney Carriage trade regarding the number of vehicles licensed by the Council and other relevant matters such as accessibility.

## **7. IMPLICATIONS**

### **(a) Financial Implications**

Provision is made in the council's budget for the taxi licensing service, which is run on cost recovery basis. The funding for the demand survey has been agreed in principle with Executive Councillor for Environment and Wastes Services and the trade. The budget will come from the licensing fees

(b) **Staffing Implications**

Existing staff resources will absorb any changes arising.

(c) **Equal Opportunities Implications**

Equality Impact Assessment has not yet been conducted but will be carried out on the new policy.

(d) **Environmental Implications**

If proprietors of licensed vehicles support such a scheme then a potential benefit could be a reduction in the environmental impact of the Council's current taxi and private hire fleet so that in time the City would have a fleet of modern, clean, fuel efficient taxis which would contribute to cleaner air for Cambridge.

(e) **Community Safety**

Cambridge City Council has a duty to provide a safe and secure taxi service; this includes setting minimum standards of safety for all travelling passengers, including those with disabilities and mobility issues.

## 8. **APPENDICES**

Appendix A

Draft Hackney Carriage and Private Hire Licensing Policy approved by the Licensing Committee on 06 June 2011 to undergo consultation.

Appendix B

List of consultees

Appendix C

Table of responses received during the consultation process.

Appendix D

2<sup>nd</sup> Draft Hackney Carriage and Private Hire Licence Policy that has been drafted in light of the comments received during the consultation process.

Appendix E

Taxi Guide

Appendix F

Hackney Carriage and Private Hire Vehicle National Inspection Standards: Best Practice Guide produced by the Hackney Carriage and Private Hire Inspection Technical Officer Group

Appendix G

Example enforcement management system

**9. BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

- [Transport Committee - Seventh Report "Taxis and private hire vehicles: the road to reform"](#)
- [Equality Act 2010](#)
- [Transport Act 1985](#)
- [Department for Transport Best practice guidance on Taxi and Private Hire Vehicle Licensing](#)
- [Department for Transport's guidance note "Private Hire Vehicle Licensing"](#)

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