



AGENDA ITEM: 8

**LICENSING & APPEALS
COMMITTEE: 13 October 2015**

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

**Contact for further information: Mr Paul Charlson (ext 5246)
(E-mail: paul.charlson@westlancs.gov.uk)**

SUBJECT: REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 To approve amendments to the draft Hackney Carriage and Private Hire Licensing Policy Statement prior to public consultation.

2.0 RECOMMENDATIONS

2.1 That the amended draft Hackney Carriage and Private Hire Licensing Policy Statement attached at Appendix 2 to this report be approved.

2.2 That the Assistant Director Community Services be given delegated authority to subject the amended draft Hackney Carriage and Private Hire Licensing Policy Statement to a period of public consultation before returning the document to the Licensing and Appeals Committee for final approval.

3.0 BACKGROUND

3.1 The Council's Hackney Carriage and Private Hire Policy Statement (the Policy) was first approved by this Committee in 2010. It was reviewed and revised in 2013; it received the approval of this Committee on 9 April 2013 and came into force on 10 April 2013. At that time, it was agreed that the Policy would remain in effect for three years, therefore requiring review by 9 April 2016.

4.0 ISSUES

4.1 The amended draft Policy is attached at Appendix 2 to this report. For ease of reference all proposed amendments are highlighted; however, Members' attention is drawn to the following:

- *New convictions policy*

Members will be aware of the requirements contained in the Policy that are likely to result in an application (or existing licence holder) being referred to the Committee for determination. The new convictions policy does not amend these requirements, but rather provides the Committee with guidance as to how it may assess those matters when required to make a decision.

The proposed convictions policy is based on a document agreed by Licensing Officer groups across Greater Manchester and [more recently] across Lancashire. It has been developed as a means to promote the consistency and transparency in licensing decisions.

- *Banning of the use of e-cigarettes from licensed vehicles*

Members will be aware that the use of e-cigarettes was prohibited from Council owned buildings in 2014. Officers have received complaints from the public and the licensed trade relating to the use of e-cigarettes in licensed vehicles and so this matter is presented to Members as an option as an attempt to control the use of these products.

For Members' information, the decision to ban e-cigarettes from Council buildings was made for the following reasons:

- The use of e-cigarettes is subject to limited regulation and they are not licensed as a medicine in the UK;
- Given the potential similarities in appearance, it would be difficult to distinguish between a tobacco cigarette and an e-cigarette, making enforcement of the Policies or no smoking legislation problematical;
- There have been issues regarding the safe use of e-cigarettes – for example, there have been reports of fire as a result of USB ports being used to recharge the battery within e-cigarettes;
- It is not appropriate to support a product that normalises the habit and/or practice of smoking (this specifically relates to the way e-cigarettes commonly resemble the appearance of tobacco cigarettes);
- To recognise the importance of the promotion a good role model for children – i.e. the less smoking appears as 'normal behaviour' to a child, the less likely they are to smoke. (It should be noted that whilst there is strong evidence to support the effect of a tobacco smoking role model on influencing a child to smoke, there is no current comparable evidence for the use of e-cigarettes. However, a 2013 Trading Standards Survey of 18,000 young people aged 14-17 years in the North West highlighted that 13% had tried e-cigarettes. This could potentially facilitate a life-long addiction to nicotine and provide a route into smoking tobacco cigarettes).

- *New urgent action procedure*

In certain circumstances it may be necessary for Officers to take urgent action when it comes to the attention of the Council that an existing licence holder has been either accused or convicted of an offence that may bring into question whether he/she is a fit and proper person to hold such a licence. This proposed procedure is for such circumstances where Officers believe that the matter raises concerns as to whether the relevant licence holder should be allowed to continue to operate under their licence and that decision cannot wait until the next scheduled session of this Committee.

- *Revised knowledge test including increased emphasis on licence conditions and controls to safeguard children and vulnerable adults*
Given that driver licences are now granted for 3 years, it is proposed to revise and strengthen the knowledge test. As well as existing requirement, more emphasis will be placed on the applicant's knowledge of relevant licensing conditions as well as issues relating to the safeguarding of children and vulnerable adults.
- *Revised hearing procedures for new and existing licence holders*
This Committee uses an established hearing procedure for applications, which had been adapted when considering existing licence holders. The Policy has been amended to provide clear and separate procedures for both new and existing licence holders.
- *Clearer requirements for executive vehicles*
Proprietors of executive type vehicles licensed as Private Hire vehicles have always been able to seek the permission of the Council to waive certain conditions of licence. Due to increasing numbers of such enquiries, the Policy has been revised to include these requirements explicitly.
- *Private Hire Operator conditions*
Private Hire Operator conditions have been amended and updated to allow for developments in technology.
- *Implement the requirements of the Deregulation Act 2015*
Members will be aware of the changes implemented by this legislation on 1 October 2015. The Policy has been amended to reflect these changes, the most notable of which, is to increase the duration of driver and Private Hire Operator licences from 12 months to 3 and 5 years respectively.
- *Extend the Policy review period from three to five years*
Given that the Policy has been in place since 2010 and is well established, it is proposed to lengthen the period by which the Policy must be reviewed from three to five years.

4.2 If Members approved the amended draft Policy, it is proposed that the document be subject to public consultation that will last from 19 October 2015 to 10 January 2016. During this time, all licensed drivers, vehicle owners and operators will be contacted to make them aware of the amendments and of the need to submit any comments during the consultation period. In addition, information will be posted on the Council's website, in the Licensing reception at Robert Hodge Centre and also in the local press.

- 4.3 Any comments received during the consultation period will be assessed and brought back to this Committee on 2 February 2016. If Members approve the final version of the Policy at that time, it will be implemented from 1 April 2016.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 5.1 The Policy has the potential to impact upon many areas within the Community. The Licensing Objectives, therefore, has some associations with the Community Strategy, and the proposals have the following links with the Community Strategy: Community Safety (issues A, C and E); Economy and Employment (issue D).

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 6.1 No additional financial or other resources are required.

7.0 RISK ASSESSMENT

- 7.1 The Council has a legal duty to administer the Hackney Carriage and Private Hire licensing regime, but not to prepare and operate a Policy document. However, given the complexity of the licensing regime, it is good practice for the Council to formulate and publish relevant policies and standards. Given that Members have already approved the existing Policy, a failure to improve and maintain the requirements of the Policy could result in criticism from the community including statutory bodies, the taxi trade, the travelling public and other interested parties.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Equality Impact Assessment.
2. Draft amended Hackney Carriage and Private Hire Policy Statement

Appendix 1

Equality Impact Assessment Form



| | |
|--|---|
| Directorate: People and Places | Service: Community Services |
| Completed by: Paul Charlson | Date: 13/10/15 |
| Subject Title: REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY | |
| 1. DESCRIPTION | |
| Is a policy or strategy being produced or revised: | Yes <i>*delete as appropriate</i> |
| Is a service being designed, redesigned or cutback: | No |
| Is a commissioning plan or contract specification being developed: | No |
| Is a budget being set or funding allocated: | No |
| Is a programme or project being planned: | No |
| Are recommendations being presented to senior managers and/or Councillors: | Yes |
| Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty (Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations): | No |
| Details of the matter under consideration: | |
| <i>If you answered Yes to any of the above go straight to Section 3</i> <i>If you answered No to all the above please complete Section 2</i> | |
| 2. RELEVANCE | |
| Does the work being carried out impact on service users, staff or Councillors (stakeholders): | No <i>*delete as appropriate</i> |
| If Yes , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered Yes go to Section 3</i> | |
| If you answered No to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i> | |
| 3. EVIDENCE COLLECTION | |
| Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)? | All licensed HC & PH drivers and operators. |
| If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)? | All sections of the public used licensed HC & PH vehicles, this report relates to the Council's implementation of relevant licensing legislation. |

| | |
|---|--|
| Which of the protected characteristics are most relevant to the work being carried out? | <i>*delete as appropriate</i> |
| Age | No |
| Gender | No |
| Disability | No |
| Race and Culture | No |
| Sexual Orientation | No |
| Religion or Belief | No |
| Gender Reassignment | No |
| Marriage and Civil Partnership | No |
| Pregnancy and Maternity | No |
| 4. DATA ANALYSIS | |
| In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why? | All licensed HC & PH drivers and operators. |
| What will the impact of the work being carried out be on usage/the stakeholders? | Revised licence requirements and procedures. |
| What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals? | The proposed Policy will be subject to public consultation. Any objections will be brought back to this Committee. |
| What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics? | The proposed Policy will be subject to public consultation. Any objections will be brought back to this Committee. |
| If any further data/consultation is needed and is to be gathered, please specify: | N/A |
| 5. IMPACT OF DECISIONS | |
| In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)? | None. |
| 6. CONSIDERING THE IMPACT | |
| If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.). | N/A |
| What actions do you plan to take to address any other issues above? | No actions <i>If no actions are planned state no actions</i> |
| 7. MONITORING AND REVIEWING | |
| When will this assessment be reviewed and who will review it? | The proposed Policy will be subject to public consultation. Any objections will be brought back to this Committee. |