

# TONBRIDGE & MALLING BOROUGH COUNCIL

## LICENSING & APPEALS COMMITTEE

27 November 2018

Report of the Director of Director of Central Service and Monitoring Officer

### Part 1- Public

#### Matters for Recommendation to Council

#### **1 REMOVAL OF PROBATIONARY LICENCES FROM HACKNEY CARRIAGE AND PRIVATE HIRE POLICY FOR CONSULTATION**

##### **1.1 Executive Overview**

1.1.1 Hackney carriage and private hire vehicles have an important role to play in an integrated transport system. They are able to provide services in situations where public transport is either not available, outside “normal” hours of operation such as in the evenings or at weekends or for those with mobility difficulties

1.1.2 The current Hackney Carriage and Private Hire Policy was approved by Full Council on the 10 April 2018 for the period of five years, running from 2018 – 2023.

1.1.3 On the 21 May 2018 the Licensing and Appeals Committee made a decision to discontinue of the Probationary Private Hire Licence, after a six week consultation.

1.1.4 On the 2 October 2018 the Licensing and Appeals Committee made a decision to go out on consultation with the Taxi Policy, with all references to the Probationary driver licence removed, for six weeks to allow all interested parties to comment.

1.1.5 As a result of the Consultation there were 4 Responses from the Licensing Team for Members to consider. These changes reflect the change in Delegations from the recently changed Constitution and that we will give regard to new guidelines published by the Institute of Licensing.

1.1.6 The Hackney Carriage and Private Hire Policy with the proposed changes is shown at **Annex 1**.

##### **1.2 Background**

1.2.1 Public safety is of paramount consideration when processing prospective candidates by ensuring only fit and proper persons are licensed to (drive members of the public safely, professionally and courteously to and from their required destinations.

1.2.2 Hackney carriages and private hire licensed drivers undertake great numbers of school contracts with Kent County Council transporting young children, people with special needs and vulnerable adults.

### 1.3 Proposed changes

1.3.1 These are the proposed changes presented to Members at the Licensing and Appeals Committee meeting on the 2 October 2018.

- Removal of all references to Probationary Private Hire Licences in the policy.
- Updated delegations - 20.1.1
- Clarification of Body and Vehicle Colour 7.19
- Changes in knowledge test processes 11.1
- The offence of “Battery” added to 10.4.4 (common assault and battery are separate statutory offences – however the term assault encompasses the offence of battery for the purposes of s.40 of the Criminal Justice Act 1988. They are summary offences for which the maximum penalty is a fine not exceeding level 5 and/or 6 months imprisonment)

### 1.4 Consultation

1.4.1 The consultation ran for six weeks from the 5 October 2018 until 16 November 2018.

1.4.2 Subject to the Licensing & Appeals Committee agreeing the format and content of the taxi policy it will be recommended to Full Council for adoption.

1.4.3 The policy will be available for download on the Council’s web site as well as copies being available at the Council’s main offices.

1.4.4 As a result of the Consultation there were 4 Responses from the Licensing Team for Members to consider. These changes reflect the change in Delegations from the recently changed Constitution and that we will give regard to new guidelines published by the Institute of Licensing.

1.4.5 A copy of the Consultation feedback form is shown at **Annex 2**

1.4.6 The following process steps enabled development of this policy

Draft consultation agreed at the Licensing and Appeals Committee	2 October 2018
Public Consultation	5 October 2018 until 16 November 2018
Licensing and Appeals Committee agrees the policy and recommends to Full Council for adoption	27 November 2018
Full Council adopt policy	19 February 2019
New Policy comes into force	1 March 2019

## 1.5 Legal Implications

- 1.5.1 The Council is entitled (but not required) to adopt a policy for the licensing of the hackney carriage and private hire trade. Policies play an important role in ensuring fair and consistent decision making, although a policy cannot fetter the discretion of the Council and each case must be determined on its own merits.
- 1.5.2 The Statement of Policy will last for a maximum of three years, and will be adopted by Full Council on the recommendation of the Licensing and Appeals Committee.

## 1.6 Financial and Value for Money Considerations

- 1.6.1 Fee levels for taxi licences are set by the Licensing Authority.

## 1.7 Risk Assessment

1.7.1 The introduction of a policy should provide a transparent and consistent basis for decision making. This in turn should reduce the risks of decisions being challenged in the Courts.

## **1.8 Equality Impact Assessment**

1.8.1 There is no perceived impact on end users.

## **1.9 Recommendations**

1.9.1 That the draft Taxi Policy shown at Annex 1 be approved.

Background papers:

Current Hackney Carriage and Private Hire Policy  
Town Police Clauses Act 1847  
Local Government (Miscellaneous Provisions) Act 1976

contact:  
Anthony Garnett  
Katie Shipman  
Leeann Leeds

Adrian Stanfield  
Director of Central Services and Monitoring Officer