

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

09 March 2021

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Matters for Recommendation to Council

1 CHANGES TO TMBC HACKNEY CARRIAGE AND PRIVATE HIRE POLICY IN LIGHT OF NEW STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS

1.1 Background

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 Extract from Department of Transport Statutory Taxi & Private Hire Vehicle Standards.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

1.1.4 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and, in some cases, perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from Greater Manchester and Merseyside suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the Crime Survey for England and Wales.

1.1.5 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the Care Act 2014, which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):

(a) has needs for care and support (whether or not the authority is meeting any of those needs),

(b) is experiencing, or is at risk of, abuse or neglect, and

(c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.

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

1.2 Proposed changes

1.1.1 The main changes contained in this Hackney Carriage and Private Hire Taxi Policy 2018 – 2023 from the current version are:

- Paragraph 1.4.5 - Child Sexual Exploitation and Safeguarding Training
- Paragraph 1.4.6 - Disability equality training
- Paragraph 1.4.7- DBS check twice a year
- Paragraph 1.4.9 and 4.7.1 – DBS on-line Certificate
- Paragraph 1.4.10 - Whistleblowing policy
- Paragraph 4.7.10 - Referrals to the Disclosure and Barring Service and the Police
- Paragraph 4.8 –National Register (NR3)
- Paragraph 4.9 - Multiagency Safeguarding Hubs
- Paragraph 5.3.2 and 9.2.2- Basic DBS check for partner or director of the company holding vehicles/operator licences

- Paragraph 11.4.3 – Violence - Person convicted of crimes resulting in death will not be licensed.
- Paragraph 11.4.4 - Violence – The time before an application will be consider has increased to 10 years.
- Paragraph 11.5.1 – Drugs – on conviction of possession and intent to supply the time before an application will be consider has increased to 10 years.
- Paragraph 11.5.2 – Drugs - on conviction of possession the time before an application will be consider has increased to 5 years.
- Paragraph 11.7.1 – Sexual Offences - conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted
- Paragraph 11.7.2 – Sexual Offences – A licence will not be granted if an applicant is currently on the Sex Offenders Register or on any barred list.
- Paragraph 11.8.1 – Exploitation - conviction for any offence involving or connected with Exploitation, a licence will not be granted
- Paragraph 11.11 - On conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed.
- Paragraph 11.14 - a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed
- Paragraph 16.1.1 – Private Hire Operator Licence Conditions
 - Register of all staff that will take bookings or dispatch vehicles
 - Register of Basic DBS check for booking and dispatch staff
 - Obligation to protect children and vulnerable adults
 - Provide their policy on employing ex-offenders in roles that would be on the register
- Paragraph 16.3.1 – Bookings – change in data to be recorded
- Paragraph 19.2 - Tonbridge & Malling Borough Council complaints procedure

1.3 Consultation

1.3.1 The consultation run from the 23 November 2020 until 31 January 2021.

Consultation agreed at the Licensing and Appeals Committee	17 November 2020
Public Consultation	23 November 2020 – 31 January 2021
Licensing and Appeals Committee	9 March 2021
Full Council asked to adopt policy	13 April 2021
New Policy due to comes into force	19 April 2021

1.3.2 We have received **no return** from the consultation.

1.4 Legal Implications

- 1.4.1 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.
- 1.4.2 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.

1.5 Financial and Value for Money Considerations

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

1.6 Risk Assessment

- 1.6.1 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.

1.7 Equality Impact Assessment

- 1.7.1 There is no perceived impact on end users.

1.8 Recommendations

That the draft Statement of consultation, attached as Annex 1 be commended to Council for adoption.

Background papers:

contact: Anthony Garnett

Nil

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