

## PART A

**Report to:** Licensing Committee  
**Date of meeting:** 8 March 2021  
**Report of:** Business Compliance Officer  
**Title:** Report on the Hackney Carriage and Private Hire Policy 2021-2026

### 1.0 **Summary**

- 1.1 This report concerns the consideration for adoption of a new Hackney Carriage and Private Hire Policy. Changes to existing policies are necessitated by the publication in July 2020 of the Department for Transport Statutory Taxi and Private Hire Standards.
- 1.2 The council has a number of existing policies covering drivers, vehicles, operators and suitability. The proposed policy brings these together in to one document as recommended by the standards.
- 1.3 Where a change has been made to current policies, whether by way of addition or removal of a requirement, the relevant section of the new policy has been included in the body of this report along with reference to the relevant section of the Standards.
- 1.4 Members are asked to consider this report and the new policy and to decide on whether or not they wish to adopt the policy.

## 2.0 Risks

### 2.1

Nature of Risk	Consequence	Suggested Control Measures	Response (Treat, tolerate, terminate, transfer)	Risk Rating (the combination of severity and likelihood)
Not implementing all new standards	Challenge to future decisions and risk that the council is seen to be doing all it can to safeguard passengers and drivers	Apply all options contained in the report	Treat	High
Implementing some standards	Risk of future issues where it may be necessary for the authority to explain the reasoning behind not implementing all of the recommended standards	Provide full reasoning for not implementing all standards offering alternatives where appropriate.	Treat	High
Legal challenge from incorrect decision	Negative perception of council and its licensing functions, and challenge through the Courts	Ensure that any proposed policy is subject to thorough public consultation and considered again by the committee before any proposed changes are adopted.	Treat	2

### 3.0 Recommendations

- 3.1 That the committee approve The Hackney Carriage and Private Hire Licensing Policy 2021 - 2026 as found at Appendix 1.
- 3.2 For further information on this report please contact:  
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**Report approved by:** Justine Hoy, Head of Community Protection

### 4.0 Introduction, Background and Principals

- 4.1 The Department for Transport Statutory Taxi and Private Hire Standards were published on 21 July 2020. A colour coded copy of the Standards is attached at Appendix 2. These have been colour coded by officers and the key to the coding is at section 6.2 of this report.
- 4.2 The Standards cover a wide range of issues, including driver, vehicle and operator standards. This report will not repeat the details of the information contained within the introduction to the Standards (particularly sections 1 and 3) which give good background on the reasons for the publication of the standards.
- 4.3 It is important to note that it remains the decision of the Council as to whether or not the entirety of these standards should be implemented. Section 2 of the standards gives some detail of the legal framework under which the Standards are published and the effect this has in terms of the Council's decision. Members' attention is drawn particularly to sections 2.5 to 2.9 and the definitions covering the term 'must have regard'.
- 4.4 Members should note that in Section 2.8 of the Standards it is stated:

*Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it*

*may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).*

(Sections highlighted in bold type are highlighted in the Standards, not by the author of this report).

It is suggested that this report forms the first of the considerations required.

4.5 At Section 1.3 the Standards say:

*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.***

4.6 However, the manner in which the standards are written suggests that the manner in which some can be complied with is variable. For example, section 9.3 which covers driver awareness of the regulatory regime.

4.7 Setting the standards remains the decision of the Council and where good reason can be found to retain current policy and procedure, it remains possible for the Council to depart from these new Standards if it wishes to do so.

4.8 Following a full review of existing policies as outlined at Licensing Committee on 14 January 2021, a new policy was drafted, bringing together and amending a number of existing policies:

Vehicle Applications and conditions

Private Hire Operator Applications and conditions

## Guidelines on the Grant, Suspension and Revocation of Hackney Carriage and Private Hire Driver Licences and Operator Licences Driver Conditions

In addition, new policy sections cover:

Driver Application Process

### 5.0 **Public Consultation**

5.1 In accordance with the committee decision of 14 January 2021 a public consultation on the new drafted policy was undertaken between 18 January and 19 February 2021

Consultation was advertised on the Watford Borough Council website and all licence holders sent information as to how to access the consultation documents.

Audio versions of the consultation were created and hosted on the WBC website (from 04 February onward) in order to improve accessibility for all.

Links were posted on social media platforms and further consultation with licensing authorities, police, and charities was undertaken.

5.2 Full details of how to respond to the consultation were included in the audio files.

The results of the consultation are as follows:

There were 4 responses to the consultation.

One trade response supported the proposals. One trade response asked questions concerning the cost of DBS checks and access to training. These questions were answered in writing and the respondent indicated on the telephone that they had no further concerns or questions.

The Chair of Disability Watford responded and did not raise any specific concerns beyond accessibility for people with a disability. The Chair reiterated the importance of various types of vehicle being used to suit all types of disability, but also explained that DW members need a larger amount of wheelchair accessible vehicles overall as is the case in most large towns. All vehicles should have uniform signage and coloured livery

as they had in the past in Watford, and vehicles should have larger numbers placed on them than the existing ones to assist in vehicle and driver recognition. All measures must ensure access to booking transport is as accessible as possible and not limited to those who can use a smartphone or computer. The Chair raised the issue of talking taxi meters which was explored at the time of the last vehicle licence policy but not this one. On searching at the time of last vehicle licence policy in December 2019 it was not possible to obtain a working unit despite contacting companies claiming to have devices which would allow a meter to give an audio output for passengers in need of such assistance. The Chair of DW is correct to say that this research was not carried out on this occasion. Lastly, the Chair forwarded questions being asked about driver training in infection control, use of PPE and vaccines. These issues have not been directly addressed in this policy but Members will be aware that the council is currently offering free infection control training to all drivers as part of the Travel With Confidence scheme. They may wish to consider adding this topic to the mandatory training list.

The police responded to say they had no issues or comments to add concerning the proposals.

## 6.0 **The Taxi and Private Hire Licensing Policy**

6.1 In accordance with section 3.1 of the Standards one of the most significant changes has been made through the creation of a single licensing policy for taxi and private hire services. This brings together the existing independent policies and introduces clear written guidance on driver applications. The proposed policy can be found at Appendix 1.

## 7.0 **Current differences between the proposed policy and existing policies or procedures**

In order to assist Members in tracking changes to existing policy a copy of the new Standards was created with colour coding. This colour coded document was presented to the Committee in October and January and is attached to this report as Appendix 2. The table shows the status of current policies or procedures of the Council in comparison to the new proposed policy as follows:

<b>Green</b>	No change has been made to existing policies as we already comply, offer advice as suggested by the Standards and/or current standards are considered better for local requirements than those proposed.
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<b>Yellow</b>	Small amendments have been made to bring existing policy in line with the standards
<b>Red</b>	Requirements have been added to the policy to bring policy in line with the standards.
<b>Purple</b>	Requirement does not form part of the policy for applicants.
<b>White</b>	Is not a suggestion of policy within the Standards or is not considered a suitable addition to policy at this time.
<b>Blue</b>	For consideration as part of review of EH Compliance Policy

- 7.1 The Standards are intended as a minimum standard. Councils are free to apply higher standards where they see fit to do so. Therefore, in areas where the current policy or procedure was found to be equal to or of a higher standard than those proposed in the Standards, the requirement remained unchanged and was incorporated in to the new policy. All parts of the policy are based upon ensuring the safest service and in encouraging the most sustainable and accessible service.
- 7.2 A small number of sections in the Standards do not relate to policies for applicants and these are detailed at the end of the report. They do not relate to the proposed new policy.
- 8.0 **Yellow Areas – amendments to existing policy**
- 8.1 Yellow areas are those where some changes were necessary in order to bring policies or procedures which already exist fully in line with the new Standards. The following changes have been introduced to bring these sections in line. Changes are listed with relevant section of the Standards, the old policy that is amended by the change, and an explanation of the differences.

Change	Section(s) of Standards	The policy that is amended by the change	Difference
A requirement that all licences are subject to review where new standards are introduced	3.14	Driver Applications	This is something currently already done but it is not explicitly stated. Each case is on its merit and all applications are treated in this way. The change is therefore now written in the policy.
<i>Licence holders are required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.</i>	4.12	‘Guidelines on the Grant of Licences, etc’  Conditions attached to the grant of a private hire drivers licence	The current policy requires convictions to be notified within 28 days.  There is a discrepancy between the current private hire driver licence condition which requires only ‘convictions’ to be notified and the wording of section 4.4 of the existing ‘Guidelines’ which lists the broader definition to include arrests, charges etc. This is rectified in the proposed policy at section 18.4.4 and the new proposed Private Hire driver licence conditions at condition 13.
Applicants who have been abroad for more than 3 months must provide a ‘certificate of good conduct’	4.34, 8.6	‘Guidelines on the Grant of Licences, etc’	This is currently set at 6 months.
In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.	6.3	‘Guidelines on the Grant of Licences, etc’	This is current policy under the ‘fit and proper’ consideration but not something that is explicitly stated. It is now listed.
A licensing authority’s test of a driver’s proficiency should	6.15	Driver Applications	As part of our Driver Training Day candidates are expected to attend and to understand a

<p>cover both oral and written English language skills to achieve the objectives stated above.</p>			<p>detailed training session covering a range of topics. New applicants are subject to a written test but existing drivers are not.</p> <p>This requirement is now listed as part of the driver application procedure.</p> <p>Existing drivers to be subject to a written test following attendance at refresher training.</p>
<p>Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.</p>	8.2	Private Hire Operator Licence Application and conditions	<p>We currently require a check on application (including where an applicant is a company, for all directors) but we do not do this annually. This has now been added to the proposed PHO licence conditions</p>
<p>Minimum record keeping requirements for Private Hire Operators:</p> <ul style="list-style-type: none"> <li>• <i>the name of the passenger;</i></li> <li>• <i>the time of the request;</i></li> <li>• <i>the pick-up point;</i></li> <li>• <i>the destination;</i></li> <li>• <i>the name of the driver;</i></li> <li>• <i>the driver's licence number;</i></li> <li>• <i>the vehicle registration number of the vehicle;</i></li> <li>• <i>the name of any individual that</i></li> </ul>	8.13	Private Hire Operator Licence Conditions	<p>The list of records to be kept is currently:</p> <ul style="list-style-type: none"> <li>(a) Place at which vehicle is to attend;</li> <li>(b) Date and time at which vehicle is to attend;</li> <li>(c) Destination;</li> <li>(d) Plate and registration numbers of vehicle;</li> <li>(e) Name of driver of vehicle.</li> </ul>

<i>responded to the booking request;</i> • <i>the name of any individual that dispatched the vehicle.</i>			

## 9.0 Red Areas – New additions to policy

9.1 Red areas are those where new additions are made to the proposed policy. The following changes have been introduced to bring these sections in line. Changes are listed with relevant section of the Standards, the existing policy that is amended by the change, and a brief explanation of the requirement or impact of the change where necessary or relevant.

<b>New Requirement</b>	<b>Section(s) of Standards</b>	<b>The policy that is amended by the change</b>	<b>Impact (where necessary)</b>
The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing.	3.1	New	This should lead to a significant improvement in accessibility and understanding for applicants.
A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.	4.14, 4.15, 4.16	'Guidelines on the Grant of Licences, etc'	We would currently notify relevant authorities but do not specify the DBS. Reporting will lead to improvement to public safety
To aid further the quality of the information available to all parties that have a safeguarding duty, a	4.19	'Guidelines on the Grant of Licences, etc'	We would currently notify relevant authorities but do not specify the police.

<p>revocation or refusal on public safety grounds should also be advised to the police.</p>			<p>Reporting will lead to improvement to public safety</p>
<p>All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.</p>	6.2	<p>Driver Applications</p>	<p>WBC require DBS checks to an enhanced standard. However, we do not currently require drivers to subscribe to the update service.</p> <p>This addition will increase safety and reduce the burden on drivers when re-licensing.</p>
<p>Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually for those holding or applying for a vehicle licence</p>	7.2	<p>Vehicle Licensing Conditions</p>	<p>Section 16.6.2 of the Policy had been added to introduce this check. It does not apply to those who are licensed as drivers or operators who have already been checked.</p>
<p>Applicants who have been abroad for more than 3 months must provide a 'certificate of good conduct'</p>	7.6	<p>Vehicle Licensing Conditions</p>	<p>This is the same updated requirement (reduced from 6 months to 3 months) as placed upon drivers and operators by virtue of section 18.19 - Fit and Proper – Guidelines on the Grant, Suspension and Revocation of Licences</p>
<p>Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.</p>	8.8, 8.10	<p>Private Hire Operator Licence Conditions</p>	<p>Currently no requirement to provide the details of staff working in the office.</p>

Operators must evidence that they have conducted sufficient checks of any other companies to which they sub-contract bookings to make sure systems are in place to protect customers, particularly children and vulnerable adults	8.11	Private Hire Operator Licence Conditions	Currently no requirement
Operators must supply any policy on the employment of ex-offenders	8.12	Private Hire Operator Licence Conditions	Currently no requirement
The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.	8.16, 8.17	Private Hire Operator Licence Conditions	This is not an issue that has arisen in Watford.

## 10.0 Errors identified and corrected in draft

- 10.1 In section 16, Vehicle Licensing, a section of the Equality Act 2010 was incorrectly listed as section 187. This should have been section 167 and this was corrected on 1 February and the document online updated.

A small number of direct web-links were removed to prevent the links becoming obsolete and causing confusion.

## 11 Implications

### 11.1 Financial

11.1.1 The Shared Director of Finance comments that any changes can be contained within existing budgets.

### 11.2 Legal Issues (Monitoring Officer)

11.2.1 The Group Head of Democracy and Governance comments the legal implications are contained within the report and appendices

### 11.3 Equality Impact Assessment

11.3.1 An impact assessment on the proposed policy has been undertaken and can be found at appendix 3

## Appendices

*Appendix 1- Taxi and Private Hire Licensing Policy 2021-2026 (draft)*

*Appendix 2- Colour Coded Department for Transport Statutory Taxi and Private Hire Vehicle Standards*

*Appendix 3 – Equality Impact Assessment*

## Background Papers

Guidelines on the Grant, Suspension and Revocations of Hackney Carriage and Private Hire Driver Licences and Operator Licences, 2016 - 2021

Private Hire Operator Conditions (2017)

Vehicle Licensing Policy 2019 – 2024