

Report No: Public Agenda Item: **YES**

Title: **Hackney Carriage and Private Hire Licensing Policy**

Wards Affected: **All**

To: **Licensing Committee** On: **12 May 2022**

Key Decision: **Yes**

Change to Budget: **No** Change to Policy Framework: **Yes**

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## 1. What we are trying to achieve

- 1.1 For Members agreement to the new Hackney Carriage and Private Hire Licensing Policy referred to as 'The Policy'. This Policy shall amend and replace the existing Policy.
- 1.2 To provide Members with an opportunity to approve the Policy and to consider the representations received during the consultation period, some of which have been incorporated within the Policy. See **Appendix 8**.

## 2. Recommendation(s) for decision

- 2.1 To approve the Policy as recommended and attached at **Appendix 8**.

## 3. Key points and reasons for recommendations

- 3.1 Under the provisions of the Town Clauses Police Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles, Private Hire Operators and the drivers of those vehicles within Torbay.
- 3.2 Torbay Council, as the Licensing Authority has a duty to provide a framework within which vehicles, operators and drivers are licensed for the safety of the public and other road users. This Policy sets the expected standards and expectations and identifies how the Licensing Authority will conduct its functions in this regard.
- 3.3 The revised Policy, attached in **Appendix 8**, incorporates changes in legislation, guidance and current best practice and provides for a more robust licensing

regime within Torbay than that which currently exists.

- 3.4 The draft Policy, attached at **Appendix 2**, was subject to an 8 week consultation period in 2021. This period concluded on 10<sup>th</sup> September 2021.
- 3.5 In order to facilitate response, a questionnaire was developed which highlighted and sought views on the key changes within the Policy. In total 96 questionnaires were returned. A summary of the responses is attached at **Appendix 3 & 4**.
- 3.6 In addition to the questionnaires, 3 separate representations were received from Jud Boyle, Chairman of Torbay Cab Company, attached at **Appendix 5**; Babbacombe Cars, attached at **Appendix 6** and the Torbay Licensed Taxi Association (TLTA), attached at **Appendix 7**.
- 3.7 The representations and responses have been considered and where necessary, or appropriate to do so, the Policy has been amended and a revised version of the Policy can be found at **Appendix 8**.
- 3.8 The revised Policy, attached at **Appendix 8**, was then subject to another 3 week consultation period, to address some of the practical concerns raised in the earlier consultation. This period concluded on 14<sup>th</sup> April 2022.
- 3.9 In total 8 responses were received. These responses include, Living Options Devon, Department for Transport, Paul Le Huray (Torbay Taxis), Michael Lawlor, Richard Womersley, Torbay United Licensed Drivers Association (TULDA), TLTA and Torbay Council School transport. These responses are attached at **Appendices 10-17**.
- 3.10 Approval of the Policy is a Licensing Committee decision. Any challenge to the Policy would have to take place within three months of it being adopted. Such a challenge would be by way of Judicial Review.

**For more detailed information on this proposal please refer to Annex A.**

**Steve Cox**  
**Environmental Health Manager (Commercial)**

## **Annex A – Supporting information to Report**

### **A1. Introduction and history**

- A1.1 Under the provisions of the Town Clauses Police Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, Torbay Council is the Licensing Authority in respect of Hackney Carriages, Private Hire Vehicles, Private Hire Operators and the drivers of those vehicles within Torbay.
- A1.2 Torbay Council, as the Licensing Authority has a duty to provide a framework within which vehicles, operators and drivers are licensed for the safety of the public and other road users. This Policy sets the expected standard and expectations in this regard.
- A1.3 The draft Policy, attached at **Appendix 2**, was subject to an 8 week consultation period in 2021. This period concluded on 10<sup>th</sup> September 2021.
- A1.4 In order to facilitate response, a questionnaire was developed which highlighted and sought views on the key changes within the Policy. In total 96 questionnaires were returned. A summary of the responses are attached at **Appendix 3 & 4**.
- A1.5 In addition to the questionnaires, 3 separate representations were received from Jud Boyle, Chairman of Torbay Cab Company, attached at **Appendix 5**; Babbacombe Cars, attached at **Appendix 6** and the Torbay Licensed Taxi Association (TLTA), attached at **Appendix 7**
- A1.6 The representations and responses have been considered and where necessary, or appropriate to do so, the Policy has been amended and a revised version of the Policy can be found at **Appendix 8**.
- A1.7 This revised Policy was then subject to another 3 week consultation period to address some of the practical concerns raised in the earlier consultation. The main alterations to the Policy in **Appendix 8** being outlined in paragraphs A1.11 to A1.23 below:
- A1.8 In total 8 responses were received. These responses include, Living Options Devon, Department for Transport, Paul Le Huray (Torbay Taxis), Michael Lawlor, Richard Womersley, Torbay United Licensed Drivers Association (TULDA), TLTA and Torbay Council School transport. These responses are attached at **Appendices 10-17**.
- A1.9 The response from Living Options Devon talks about the quantity restriction on the number of Hackney Carriages, however, this Policy review was not aiming to change quantity numbers. This response should not be considered as any quantity restriction in relation to Hackney Carriages should be done with a supporting unmet demand study which is carried out every three years. This response is attached at **Appendix 10**.
- A1.10 The Department for Transport have also responded and have not offered any comments. This is due to any proposed changes to its Hackney Carriage and Private Hire Policy being at the discretion of the Local Authority. This response is attached at **Appendix 11**.

A1.11 The requirement relating to medical examinations for licensed drivers, as outlined at paragraph 5.22, 5.26 and 5.27 of the Policy, has been expanded to allow an applicant to obtain a group 2 medical examination from not just their own G.P practice, but from an approved medical provider. This change has come due to lengthy delays in obtaining an appointment with a G.P to conduct the group 2 medical check following Covid-19. This ensures a driver remains fit to hold a licensed driver's badge, or in the case of new applicants, there is no delay into applying for a licence.

A1.12 The most significant change to the Policy can be found at paragraph 14.6 of the Policy. The maximum age of a vehicle has been decreased from 4 years and 50,000 miles to 3 years with no mileage cap. This will ensure that we are capturing Euro 6D vehicle types which are more environmentally friendly than previous versions of Euro 6 vehicles, with newer vehicles emission standards being tightened year on year, so accelerating these reducing emissions. This is a small step to address our emissions to help Torbay Council meet the climate emergency and net zero.

From 1<sup>st</sup> May 2030 any licensed vehicle being presented, must be an Electric vehicle and less than 3 years old with no mileage cap. Although the draft Policy at **Appendix 2** aimed for 4 years earlier, with an implementation date of 2026, the feedback from the consultation highlighted delays in residential and public charging points not being installed within Torbay. There is a significant proportion of drivers not having the ability to charge vehicles at home, this is a significant barrier to the implementation of a stronger Policy on electric vehicles. Therefore, 2030 is a more realistic target with current vehicle owners reporting a shortage of Electric vehicles on the market. New Electric vehicles are reportedly taking 10-12 months before obtaining the vehicle. By setting a date of 2030, this ensures that manufacturers can produce more suitable Electric vehicles and there is ample supply on the second hand market to purchase.

An existing licensed vehicle which was licensed before the 12<sup>th</sup> May 2022, can continue to be renewed up to a maximum of 10 years old. Any vehicle licensed after the 12<sup>th</sup> May 2022, can only be renewed up to a maximum of 8 years old. This is to ensure that existing vehicle owners are not penalised for a sudden decrease in vehicle age and with a decrease of vehicle age, this should see more environmentally friendly vehicles introduced to the licensed fleet.

100% Electric vehicles can be licensed up to 15 years, which again is to encourage the take up of electric vehicles, to address our emissions to help Torbay Council meet the climate emergency and net zero. Although there is some concern through the consultation on battery life, manufacturers are bringing out battery change overs, just like an existing petrol or diesel engine that can be changed when it comes to the end of its life.

A1.13 Paragraph 14.7 of the Policy has been added to review this Policy in 2027, though if there was to be a significant improvement in charging infrastructure, this could be brought forward. This is specifically in relation to the implementation of 100% Electric vehicles which is planned for 1<sup>st</sup> May 2030. This review will ensure that the correct charging infrastructure in Torbay is in place. It will also allow for the introduction of vehicles with an alternative fuel source which may have come onto the market that can be used as an alternative to Electric Vehicles.

- A1.14 Wording has been removed at paragraphs 14.24 and 14.25 of the Policy, due to being a duplication under the grant and renewal of vehicles section of the Policy.
- A1.15 Vehicle compliance tests are to be commenced from 1<sup>st</sup> May 2022. At paragraph 14.26 of the Policy, the age requirements have been changed to reflect the new vehicle age rules mentioned previously.
- A1.16 Clarification on Private Hire door signs at paragraph 14.40 of the Policy has been added. The list of signage requirements has been added as per the original advertising rules in relation to Private Hire vehicles. There has been an increased number of complaints and non-compliance surrounding Private Hires not complying with door sign requirements.
- A1.17 At paragraph 14.55 of the Policy, there is now a requirement for all licensed vehicles to have a minimum cover of £5 million, Public Liability insurance. This is in addition to the existing requirement to provide the correct level of insurance cover for public hire (applicable to Hackney Carriage), or Private Hire/hire and reward (applicable to Private Hire). This requirement will protect a licensed driver from any unforeseen circumstances or accidents, involving passengers in their care.
- A1.18 From the 1<sup>st</sup> September 2022 there is a requirement for all Hackney Carriage vehicles to provide a card payment system in the vehicle. It is the law that a Hackney Carriage cannot accept a fare, however, with the increased use of card payments, if a customer is unable to pay with cash and they only have a card present, the fare cannot be carried out, so in effect the vehicle/owner/driver is committing an offence. It also outlines minimum price charging cannot take place for the use of a card. This addition has been added at paragraphs 14.56 to 14.58 of the Policy.
- A1.19 Section 15 of the Policy covers the grant and renewal of vehicle licences. At paragraphs 15.4 & 15.6 to 15.8, the age requirements have been changed to reflect the new vehicle age rules mentioned previously.
- A1.20 Section 20 of the Policy covers meters in licensed vehicles. It is the law for a Hackney Carriage to have a meter fitted to calculate the set Council tariff. These meters should not be GPS calculating meters due to the user being able to adjust the fare, whereas a fitted meter is professionally calibrated and set so it cannot be tampered with. Paragraphs 20.6 and 20.7 have been added. In addition to this, the roof sign which should be illuminated when not in use, should be connected to the meter to show that the Hackney Carriage is available for hire. A Private Hire vehicle does not legally require a meter as they set their own tariff, although it is deemed as good practice and paragraph 20.8 has been added for this clarification.
- A1.21 Appendix D of the Policy covers vehicle specification standards. The following significant changes have been made
- Deletion of wording in relation to manufacturers specification
  - Application – age limit added to reflect Electric vehicle age limit as previously mentioned
  - Livery Policy – Vehicles are allowed to be professionally wrapped, however, the Vehicle logbook 'V5' must be changed to reflect the change in vehicle colour.

- Engine size – Wording added to recognise plug in hybrid vehicles
- Engine size -Wording removed in relation to the Licensing Authority encouraging the use of greener vehicles. This should actually be left in the Policy.
- Engine size – Wording removed in relation to LPG conversions
- Doors – Wording removed to allow 6 seater vehicles onto the fleet. This wording also contradicted 8 seaters which we continued to licence
- Seating – Wording removed in relation to occasional seats. This allows 6 seater vehicles onto the fleet, but minimum seat widths are already covered to govern this change.
- Luggage – Wording removed in relation to minimum luggage space. With an increase in newer, more environmentally friendly vehicles, the boot space is naturally smaller.
- Luggage – Wording added to ensure the luggage space available is sufficient for the number of persons the vehicle is licensed for.

A1.22 At Appendix F of the Policy, wording has been added under ‘Roof Signs’ regarding the Hackney Carriage roof sign as previously mentioned, as it should be capable of being lit when the vehicle is available for hire.

A1.23 An additional Appendix to the Policy has been added, Appendix K: Criteria to be considered in the allocation of Hackney Carriage vehicle proprietor waiting list. The draft appendix was agreed by Licensing Committee on the 11<sup>th</sup> March 2021 and put out for consultation. A summary of the results can be found at **Appendix 4**.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

Approval of the Policy is a Licensing Committee decision. Any challenge to the Policy would have to take place within three months of it being adopted. Such a challenge would be by way of Judicial Review.

## **A3. Options**

A3.1 The options in relation to the Hackney Carriage and Private Hire Licensing Policy are:

- (i) To agree the new Policy in its current form
- (ii) To amend and agree the new Policy
- (iii) To refuse to endorse the new Policy

## **A4. Summary of resource implications**

A4.1 There are no significant additional resource implications that will derive from the Council discharging its routine and ongoing responsibilities, under the Hackney Carriage and Private Hire licensing regime.

## **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no perceived equalities implications nor direct Crime and Disorder implications. These changes reflect positively on reducing vehicle emissions and

the move to electric vehicles, though a better charging infrastructure would have allowed a speedier move to electric vehicle take up and use.

## **A6. Consultation and Customer Focus**

A6.1 There was a statutory period of 8 weeks public consultation on this draft Policy. In addition, the revised Policy following changes, was subject to 3 weeks consultation. This included consultation with those involved in providing the services and those using them.

## **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other business units relating to this report.

## **Appendices**

**Appendix 1** Original Hackney Carriage and Private Hire Licensing Policy March 2021

**Appendix 2** Draft Hackney Carriage and Private Hire Licensing Policy November 2021

**Appendix 3** Consultation response summary

**Appendix 4** Hackney Carriage vehicle proprietors licence waiting list (Appendix K) consultation response summary

**Appendix 5** Jud Boyle, Chairman of Torbay Cab Company response

**Appendix 6** Babbacombe Cars response

**Appendix 7** TLTA response

**Appendix 8** Revised Hackney Carriage and Private Hire Licensing Policy May 2022

**Appendix 9** List of consultees and responses

**Appendix 10** Living Options Devon response

**Appendix 11** Department for Transport response

**Appendix 12** Paul Le Huray, Torbay Taxis response

**Appendix 13** Michael Lawlor response

**Appendix 14** Richard Womersley response

**Appendix 15** TULDA response

**Appendix 16** TLTA response

**Appendix 17** Torbay Council School transport response

**Documents available in members' rooms:** None

**Background Papers:**

The following resources and documents were used to compile this report:

Department for Transport Guidance (“Statutory Taxi & Private Hire Vehicle Standards”)  
– July 2020 Edition