



## LICENSING COMMITTEE

Monday, 01 August 2022

<b>Subject</b>	<b>Introduction of two new pieces of legislation – The Taxis And Private Hire Vehicles (Disabled Persons) Act 2022, and The Taxis and Private Hire Vehicles (Safeguarding And Road Safety) Act 2022</b>
<b>Report by</b>	Councillor Mary Rudd – Cabinet Member with responsibility for Community Health
<b>Supporting Officer</b>	Martin Clarke Licensing Manager and Housing Lead Lawyer 01502 523226 Martin.clarke@east Suffolk.gov.uk

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not applicable
<b>Wards Affected:</b>	All Wards

## Purpose and high-level overview

### Purpose of Report:

To report to the Licensing Committee:

The introduction of two new pieces of legislation-

- 1) Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 and
- 2) Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

### Options:

- 1) To approve the additions and updates to the Hackney Carriage and Private Hire Licensing Policy
- 2) Not to approve the additions and updates to the Hackney Carriage and Private Hire Licensing Policy bearing in mind that any actions proposed are required by law.

### Recommendation/s:

To approve the additions and updates to the Hackney Carriage and Private Hire Licensing Policy

## Corporate Impact Assessment

### Governance:

Licensing is a Council function exercised by Licensing Committee and Licensing Sub-Committees.

### ESC policies and strategies that directly apply to the proposal:

Hackney carriage and private hire licensing policy.

### Environmental:

No impact

### Equalities and Diversity:

No impact

### Financial:

No impact

### Human Resources:

No impact

<b>ICT:</b>
No impact
<b>Legal:</b>
No impact
<b>Risk:</b>
No impact

<b>External Consultees:</b>	All licensed Hackney Carriage Drivers within East Suffolk were contacted directly by way of a letter in April 2022. The consultation ran for 28 days from 16 April to 13 May 2022. One response was received.
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## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: (Select only one primary and as many secondary as appropriate)		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>

P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>

**How does this proposal support the priorities selected?**

Licensing plays an important role in the themes in the Council's Strategic Plan of growing our economy and enabling our community's Hackney carriage (and private hire vehicles) are a key part of the public transport system, enabling people without their own private transport or without easy access to other means of public transport to travel for education, employment, and entertainment, to shop and to attend medical appointments or deliver/receive care.

## Background and Justification for Recommendation

1 Background facts	
1.1	The Council is responsible for licensing hackney carriage and private hire drivers and vehicles, and private hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.
1.2	Requirements of the Equality Act 2010 came into force on 6 April 2017 and there are sections within it which are aimed directly at hackney carriage and private hire drivers and vehicles – sections 160 to 173.
1.3	On 28 June 2022, the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 ("The 2022 Act") took effect in England, Scotland, and Wales. It amends the Equality Act 2010 to introduce new, and amend existing, duties for local authorities and taxi and private hire vehicle (PHV) drivers and operators alike. The 2022 Act aims to ensure that disabled people can use taxi and PHV services with confidence that they will not be discriminated against, and local authorities have an important role to play in ensuring the requirements are implemented effectively. New guidance has been issued to Local Authorities and is attached as <b>Appendix A</b> .
1.4	The existing legislation requires drivers of designated wheelchair accessible vehicles to accept the carriage of wheelchair users, provide them with reasonable mobility assistance, and refrain from charging them more than other passengers.

	<p>From 28 June, all hackney carriage and PHV drivers and operators, regardless of whether the vehicle is wheelchair accessible, will be subject to duties under the Equality Act. The main changes are set out below.</p> <p><b>All hackney carriage and PHV drivers will be required to:</b></p> <p>Accept the carriage of any disabled person, provide them with reasonable mobility assistance, and carry their mobility aids, all without charging any more than they would for a non-disabled passenger.</p> <p>Provide any disabled passenger who requests it with assistance to identify the vehicle, at no extra charge.</p> <p><b>All PHV operators will be required to:</b></p> <p>Accept bookings for or on behalf of any disabled person, if they have a suitable vehicle available.</p> <p><b>Exemptions</b></p> <p>Currently, drivers of designated wheelchair accessible vehicles may apply for an exemption certificate on medical grounds or where their physical condition makes it impossible or unreasonably difficult to perform the section 165 duties. Exemptions are currently granted from all of the duties at section 165.</p> <p>As a result of the new Act, from 28 June 2022:</p> <p>All taxi and PHV drivers may apply for an exemption certificate and notice on medical grounds or where their physical condition prevents them from performing the mobility assistance duties at sections 164a and 165 (as added/amended by the 2022 Act).</p> <p>Both existing and new exemption notices, when displayed correctly, will exempt a driver only from the mobility assistance duties at sections 164a and 165 – meaning, for example, that a driver’s medical condition can no longer be used as a justification for charging a disabled person more than a non-disabled person. All licensed hackney carriage and private hire drivers will be subject to the new duties introduced by the 2022 Act, any who consider themselves medically or physically unfit to perform the mobility assistance duties would have to inform the Licensing Team.</p>
1.5	<p>On 31 May 2022 the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 came into force. The effect of this legislation is to ensure that:</p> <ul style="list-style-type: none"> <li>• if any licensing authority in England has information about a taxi or PHV driver licensed by another authority that is relevant to</li> </ul>

	<p>safeguarding or road safety concerns in its area, it must share that information with the authority that issued that driver's licence.</p> <ul style="list-style-type: none"> <li>any licensing authority provided with such information by another authority must consider whether to suspend or revoke the driver's licence and inform the authority that shared the information of its decision and the reasons for that decision</li> <li>licensing authorities in England must input, into a central database, instances where the authority has refused, suspended, chosen not to renew or revoked a taxi or PHV driver's licence based wholly or in part on information relating to the driver concerning safeguarding or road safety</li> </ul>
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2 Current position	
2.1	<p>The Council's current Hackney Carriage and Private Hire Licensing Policy states:</p> <p><b>Wheelchair Accessibility</b></p> <p>Sections 167 of the Equality Act 2010 allows Licensing Authorities to publish a list 'designated vehicles' which is a list of the wheelchair accessible vehicles licensed in their area. This list is available on the East Suffolk Council website.</p> <p>Section 165 requires the drivers of those vehicles to carry passengers in wheelchairs, provide assistance to those passengers, and prohibits them from charging extra.</p> <p>Section 166 of the 2010 Act allows an exemption certificate to be issued by the authority if there are grounds making it impossible or unreasonably difficult for them to comply with those duties, but there can be no exemption from the prohibition on charging extra for wheelchair passengers.</p> <p>The specific duties placed on the drivers of designated wheelchair accessible hackney carriage and private hire vehicles are:</p> <ul style="list-style-type: none"> <li>to carry the passenger while in the wheelchair;</li> <li>not to make any additional charge for doing so;</li> <li>if the passenger chooses to sit in a passenger seat to carry the wheelchair;</li> <li>to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and</li> <li>to give the passenger such mobility assistance as is reasonably required.</li> </ul>
2.2	<p>The policy will be updated to ensure this section covers the additional duties for all drivers and operators regardless of whether the vehicle is wheelchair accessible. It will also expand the information provided with regard to exemption certificates. Details of the new Act have been published on the Council's website since 13 June 2022.</p>
2.3	<p>With regard to the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, the Council already has a policy in place for information</p>

	<p>sharing and does share information about drivers licensed with other Local Authorities with that Authority. The current policy states:</p> <p><b>Information Sharing</b></p> <p>In the interests of protecting public funds, the Council reserve the right to use any information or data submitted as part of an application, renewal, administration or compliance and enforcement process for the prevention and detection of fraud and crime.</p> <p>The Council may share your information internally and we reserve the right to check the information you have provided for accuracy and to detect crime. We may share your information with other statutory/ regulated Authorities or if it is required by law. Other parties may include the Department for Work and Pensions, the Home Office, the Police, the DVLA, DEFRA (air quality data), HM Revenues and Customs, Disclosure and Barring Service, NAFN and other local authorities.</p>
2.4	<p>The policy will be updated to ensure the if the Council is provided with such information by another authority it must consider whether to suspend or revoke the driver's licence and inform the authority that shared the information of its decision and the reasons for that decision.</p>
2.5	<p>The Council is already using the NR3 database and the policy states:</p> <p>The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.</p>

### 3 How to address current situation

3.1	To amend and update the Hackney Carriage and Private Hire Licensing Policy to ensure all aspects of the two new pieces of legislation are clear.
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### 4 Reason/s for recommendation

4.1	To ensure all aspects of the new legislation are clear in the Hackney Carriage and Private Hire Licensing Policy and that the Council acts in accordance with the law.
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## Appendices

### Appendices:

<b>Appendix A</b>	Guidance – Access to Taxis and Private Hire Vehicles for Disabled Users
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<b>Background reference papers:</b>
<b>None</b>