



LICENSING COMMITTEE

Monday, 17 April 2023

Subject	Minor review of the Council's Hackney Carriage and Private Hire Licensing Policy
Report by	Councillor Mary Rudd – Cabinet Member with responsibility for Community Safety
Supporting Officer	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 NOT in the public interest to disclose the exempt information.	Not applicable
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

To report to the Licensing Committee:

1. A proposal to amend the Hackney Carriage and Private Hire Licensing Policy with regard to certificates of good conduct for applicants from overseas.
2. A request received from a Private Hire Operator to insert an additional record to the list of those they are required to keep under the Hackney Carriage and Private Hire Licensing Policy.

Options:

1. To approve the proposed amendment to the Policy with regard to overseas applicants
2. To not approve the proposed amendment to the Policy with regard to overseas applicants
3. To approve the request as submitted by the private hire operator
4. To approve the private hire operator request for private hire operators only
5. To not approve the private hire operator request

Recommendation/s:

1. To approve the proposed amendment to the Policy with regard to a certificate of good conduct
2. To approve the request from the private hire operator for **private hire operators** only

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
ICT: No impact
Legal: No impact
Risk: No impact

External Consultees:	The recommended change to the policy is minor and would not require consultation
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Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: (Select only one primary and as many secondary as appropriate)		Primary priority	Secondary priorities
T01	Growing our Economy		
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"/>
T02	Enabling our Communities		
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"/>
T03	Maintaining Financial Sustainability		
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"/>
T04	Delivering Digital Transformation		
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"/>
T05	Caring for our Environment		
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	Governance		
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 communities. 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	Certificate of Good Conduct for Overseas Applicants The Licensing Team has recently seen an unprecedented number of applications for private hire and hackney carriage driver licences. A number of these applications are from persons who are from, or who have lived, overseas.
1.3	If the applicant holds an EU or overseas passport the Disclosure and Barring Service can only check their history for a 5-year period of residence in the UK, they do not carry out checks prior to that.
1.4	The current Hackney Carriage and Private Hire Licensing Policy states: Applicants, including all directors and partners, who have lived out of the UK for any period of time within the five years prior to their application or renewal must obtain a certificate of good conduct from the relevant embassy or consulate covering that period. The certificate of good conduct must be authenticated, translated and sealed by the relevant embassy or consulate. Any costs associated with obtaining a certificate of good conduct are the responsibility of the applicant.
1.5	The Licensing Team is of the opinion this requirement is not robust enough. Applicants who are from overseas or who have lived overseas at any time

	ought to be required to provide a certificate of good conduct for all of that period spent overseas, not just the 5 years prior to application.
1.6	<p>The principal purpose of hackney carriage and private hire licensing is to protect the public and promote public safety. In setting out its policy, the Council seeks to promote the protection and safety of the public, safeguarding children and the vulnerable.</p> <p>The criminal history record of an applicant is a vital part of this process and therefore a record should be required for any time spent overseas.</p>
1.7	<p>Request for Addition to Private Hire Operators and Drivers Duties</p> <p>The Council's current policy for Hackney Carriage and Private Hire Licensing was published in March 2022 following new guidance issued by the Department for Transport: Statutory Taxi and Private Hire Vehicle Standards. The Licensing Committee approved the final updates, amendments and additions at its meeting in July 2021. The policy has taken into account all relevant legislation, and guidance issued to Licensing Authorities.</p>
1.8	On 12 January 2023, a request was received from a private hire operator within East Suffolk for an addition to the operators and driver's duties listed in the Hackney Carriage and Private Hire Licensing Policy.
1.9	The addition requested is for operators and drivers to keep a record of a fare (the cost) for each journey. The reason given is "without the requirement for operators or drivers to record fares I am unsure how any fare could be challenged either by a customer or the east Suffolk licensing department".

2 Current position

2.1	<p>The current policy states (for private hire operators):</p> <p>(1) Records of all journeys booked with a private hire operator (regardless of whether a hackney carriage, private hire vehicle or modified private hire vehicle will be used to carry out the journey) shall be kept.</p> <p>(2) Each booking shall be entered into the register at the time it is made.</p> <p>(3) The date of the journey shall be clear, either against each entry or at the beginning of each day. The register will be kept in date order.</p> <p>(4) Each entry shall contain the following information:-</p> <p>(a) the name of the hirer</p> <p>(b) the time the vehicle is required</p> <p>(c) the pick-up point</p> <p>(d) the destination specified by the hirer when the booking is made</p> <p>(e) the name of the driver employed to carry out the booking, or, if the booking was transferred to another private hire vehicle operator, the name of that operator. If the call sign is used to identify the driver each call sign will be unique to a driver.</p> <p>(f) the driver's licence number</p> <p>(g) the vehicle registration number of the vehicle</p> <p>(h) the name of any individual that responded to the booking request</p> <p>(i) the name of any individual that dispatched the vehicle.</p>
2.2	4 (f) to (i) were added as a result of the DfT Statutory Taxi and Private Hire Vehicle Standards published in 2020.

2.3	<p>There is no requirement in the Policy for individual drivers to keep a record of a fare, whether they are driving a hackney carriage or a private hire vehicle. This is considered unnecessary for a private hire vehicle driver as the operator will always handle the booking and will usually keep this record. The operator will also keep the record if they dispatch a hackney carriage to carry out the private hire job.</p> <p>Keeping a record of individual fares is considered unworkable for a driver of a hackney carriage. A meter will run continuously until the driver chooses to clear it. This would usually be at the end of the day, or the end of a shift. The record they obtain at this point will usually show the total number of paid miles, unpaid miles, and the total fees taken. It would not be possible at this point to look at an individual journey at a set point in the day or yesterday etc.</p> <p>The only way a driver of a hackney carriage could keep a record is to record the fare at the end of each and every journey undertaken. This is considered burdensome for the driver and unnecessary.</p> <p>A hackney carriage journey will always require the meter to be running. Any passenger will be able to see the fare charged and has the opportunity to question it at the time.</p>
2.4	<p>The Licensing Team does not receive many complaints from passengers regarding overcharging. On the occasions when this has occurred, the private hire operator has been able to provide details of the journey along with the fee charged.</p> <p>On the odd occasion when a fare has been questioned by a passenger undertaking a private hire booking in a hackney carriage, the calculation carried out by the Licensing Team has proved that the fee charged was in fact less than if the meter had been switched on.</p> <p>Licensing Committee members should be aware that there is no legal requirement for a hackney carriage to have the meter switched on if the journey is a pre-booked through a private hire operator. However, it is considered best practice to do so to ensure the passenger is not charged more than what would have been on the meter. The Policy will include a statement to reflect this.</p>
2.5	<p>There is no current legislation or guidance to Licensing Authorities to suggest that the fare (fee charged) should be recorded as part of the private hire operator's or driver's duties.</p>

3 How to address current situation

3.1	The current Hackney Carriage and Private Hire Licensing Policy does not include the duty of recording the fare (fee charged) for private hire operators, or for drivers of a private hire vehicle or hackney carriage.
3.2	The Licensing Committee is asked to consider the request from the private hire operator.

4 Reason/s for recommendation

4.1	<p>Certificate of Good Conduct for Overseas Applicants</p> <p>If the applicant holds an EU or overseas passport the Disclosure and Barring Service can only check their history for a 5-year period of residence in the UK, they do not carry out checks prior to that.</p>
4.2	<p>The principal purpose of hackney carriage and private hire licensing is to protect the public and promote public safety. In setting out its policy, the Council seeks to promote the protection and safety of the public, safeguarding children and the vulnerable.</p> <p>The criminal history record of an applicant is a vital part of this process.</p>
4.3	<p>Request for Addition to Private Hire Operators and Drivers Duties</p> <p>All private hire operators, in the Licensing Team's experience, record the fee charged for a journey. This includes journeys in private hire vehicles and a pre-booked journey in a hackney carriage. Most complaints of overcharging are dealt with between the passenger and the operator, but on the occasions when the Licensing Team has become involved, this information has been useful.</p> <p>It would not therefore, be burdensome on the private hire operator to include this information in their records.</p> <p>Maintaining such records would be considered to represent best practice.</p>
4.4	<p>It is the view of the Licensing Team that it would be unworkable and unreasonable to expect a driver of a hackney carriage (undertaking normal hackney carriage journeys) to stop and record the fare charged after each and every journey undertaken. The driver will usually keep the meter running for the duration of their shift and will then clear it and download their record of totals for that period.</p> <p>The meter itself provides the passenger with confirmation of the fare and an opportunity to question the fare if they wish.</p>

Appendices

Appendices:	
Appendix A	Request from private hire operator
Appendix B	Hackney Carriage and Private Hire Licensing Policy
Background reference papers:	
None	