



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Hackney Carriage and Private Hire Policy Review 2024–2029	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team [20 th September 2023]	X
	Pre Cabinet [19 th October 2023]	X
	Licensing Committee [18 th December 2023]	
	Cabinet [DATE] / Council [DATE]	
	Audit Committee [DATE] / Scrutiny Regeneration, Development and Market Hall Committee [DATE] / Scrutiny Health and Well Being Committee [DATE] / Scrutiny Climate Change and Environment Committee / Scrutiny Value for Money Council Committee [DATE]	



<p>Is this an Executive Decision:</p>	<p>NO</p>	<p>Is this a Key Decision:</p>	<p>NO</p>
<p>Is this in the Forward Plan:</p>	<p>NO</p>	<p>Is the Report Confidential: If so, please state relevant paragraph from Schedule 12A LGA 1972:</p>	<p>NO []</p>

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **John Teasdale**

Date Signature

Interim Chief Finance Officer: **Lisa Turner**

Date Signature

**OPEN
AGENDA**

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Licensing Committee

Date: 18th December 2023

REPORT TITLE:	Hackney Carriage and Private Hire Policy Review 2024 - 2029
PORTFOLIO:	Cabinet Member for Communities and Regulatory Services – Councillor Simon Slater
HEAD OF SERVICE:	John Teasdale – Head of Legal and Regulatory Services and Monitoring Officer
CONTACT OFFICER:	Margaret Woolley Ext. No. x1479
WARD(S) AFFECTED:	All

1. Purpose of the Report

- 1.1. To review the current Hackney Carriage and Private Hire Policy.
- 1.2. To incorporate the Department for Transport (DfT) Statutory Standards for Taxi and Private Hire Vehicle Standards into the current policy that were introduced in 2020.
- 1.3. To update the policy with reviewed standards and administrative procedures.
- 1.4. To seek approval for a consultation exercise to be undertaken on the proposals contained within this report.

2. Executive Summary

- 2.1. This report seeks to review and amend the current Hackney Carriage and Private Hire Policy 2019-2022.
- 2.2. The review is focussed on the following:

- Updating the current Private Hire and Hackney Carriage policy with the Statutory Standards published by the DfT in July 2020.
- Review of the current policy and administrative procedures.
- Addition of new legislation.
- Responding to the new administration's manifesto.

3. Background

- 3.1. The Hackney Carriage and Private Hire Policy was first introduced in 2008. Since this date the Policy has been regularly reviewed to ensure it is fit for purpose. The full Policy was last reviewed and approved by Full Council in February 2020.
- 3.2. The Licensing and Enforcement Team use two main statutes and further Guidance documents to regulate the Hackney Carriage and Private Hire trade these being:
- Town and Police Clauses Act 1847
 - Local Government Miscellaneous Provisions Act 1976
 - Best Practice Guidance issued by the Department for Transport
 - Institute of Licensing Guidance
 - Department for Transport Statutory Taxi and Private Hire Vehicle Standards 2020
- 3.3. The aim of this review is to include the Statutory Standards within our policy, include new legislation and to update policy and administrative procedures. The Council has had due regard to the statutory guidance issued by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017.
- 3.4. Members should note the context of the trade when considering this report, in that taxis do not need to be licenced by the Council in order to operate in the Borough (district). Licensed hackney carriages can only pick up fare paying passengers off the street in the area where they obtained a license. But private hire vehicles can pick up anywhere in the United Kingdom, providing (both):
- It is a pre-booked fare;
 - The driver, the vehicle, and the operator are all licensed within the same district.
- 3.5 Hackney carriages licensed by another authority can operate in this Borough but only if they have a pre-booked fare.

4. Contribution to Corporate Priorities

- 4.1. Creating a prosperous East Staffordshire.
- 4.2. SC04: Backing our Taxi Drivers - review Licensing Policy with the trade and ensure drivers are supported in the transition to Euro 6 emission standards

5. Report

- 5.1. The Hackney Carriage and Private Hire Policy 2019 – 2022 was last approved by Full Council in 2020 with a further amendment in 2022 in respect of the Emissions Policy.
- 5.2. Currently the Authority licence: 52 Private Hire Operators, 110 Hackney Carriage Vehicles, 345 Private Hire Vehicles, 16 Hackney Carriage Drivers, 150 Private Hire Drivers and 424 Combined Drivers.
- 5.3. The proposed changes are detailed below and form three sections
 - The first section are changes recommended through the Department for Transport Statutory Taxi and Private Hire Vehicle Standards first published in June 2020;
 - The second are legislative changes;
 - The third are technical changes to update policy, refine administrative processes and engage the Council's corporate priorities and targets.

Department for Transport Statutory Taxis and Private Hire Vehicle Standards

- 5.4. Disclosure and Barring Service (DBS) licensed drivers are required to have an enhanced DBS check every six months and therefore must subscribe to the DBS update service. Licensing Officers will then conduct a biannual check.
- 5.5. Vehicle proprietors (only) will also be required to obtain a basic DBS certificate.
- 5.6. Private Hire Operators are required to obtain a basic DBS annually. All those listed as part of the company or partnership are also required to provide a DBS.
- 5.7. Private Hire Operators have to evidence that they have seen a DBS for all booking and dispatch staff. They must also keep a register of all staff taking bookings.
- 5.8. Private Hire Operators must record bookings with a standard list of booking requirements.
- 5.9. Operators are able to outsource bookings but are required to provide evidence of comparable protections applied by the company.

- 5.10. Operators are to have a policy in place on employing ex-offenders. The Statutory Standards state that Operators should have in place a policy for employing ex-offenders.
- 5.11. The Authority have registered with National Anti-Fraud Network. The Authority will check the register for new and renewal applications. It will also share information on the NR3 Register to establish if licences have been revoked, suspended or refused within the last 25 years.
- 5.12. The licensing team have introduced a link on the licensing web page which enables those who wish to make a comment to the Council about a Private Hire or Hackney Carriage vehicle, driver or operator to do so more easily.
- 5.13. A notice to be displayed in licensed vehicles has also been produced to be prominently displayed advising customers of how to contact the Council should they have a comment to make about the experience with the driver, vehicle or operator.
- 5.14. Overseas Convictions – the DBS cannot access criminal records held overseas. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where the applicant has spent periods living or working overseas. The same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should be noted however that some countries will not provide a Certificate of Good Character unless the individual has been resident for six months or more.
- 5.15. The authority will seek to require applicants to provide where possible criminal records information or a Certificate of Good Character from overseas in these circumstances to properly assess risk and support decision making process. Should a Certificate of Good Conduct not be provided the person will be required to appear before the licensing committee to consider their 'fit and proper' status.
- 5.16. The DfT Statutory Standards require Authorities to provide safeguarding advice, guidance and training for both new and existing drivers and operators. The training will be required on application and every three years thereafter.
- 5.17. The licensing authority will continue to work in partnership with the police to share information as quickly as possible.
- 5.18. Authorities may jointly authorise officers from other local authority areas so that compliance and enforcement action can be taken against licensees from outside the area when they cross over boundary.
- 5.19. The DfT's view of CCTV in vehicles is that it can provide an additional deterrent. The standards state that licensing authorities should consult on the installation of CCTV in vehicles. This document provides a medium for consultation on this matter. The current policy contains information on the use of CCTV in vehicles.

CCTV is not mandatory however proprietors are encouraged to consider the benefits of CCTV within vehicles.

- 5.20. Vehicle licences can now be applied for by an individual, company or partnership. A current DBS certificate is required for all applicants.

Legislative Changes

- 5.21. Tax Registration Check's, under the Finance Bill 2020-21, are required from April 2022 for Drivers and Operators. The Authority will be required to ensure a check has been completed prior to considering an application.
- 5.22. EU Settlement Scheme – officers will ensure applicants and existing licensees are compliant with the scheme and have the right to remain and work in the UK prior to issuing licences.
- 5.23. The Taxis and Private Hire (Safeguarding and Road Safety) Act 2022 formerly introduces the requirement for local authorities to subscribe and use the NR3 register. This entails uploading historical data in respect of those that have been refused, revoked and suspended over the last 25 years and to check the register for new and renewal applications.
- 5.24. Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 requires local authorities to publish a list of wheelchair accessible vehicles. It also imposes duties on licensees to provide reasonable assistance to a disabled person.
- 5.25. Note - the above sections of legislation are already incorporated into the Council's processes but will now be embedded in policy also.

Technical Changes

- 5.26. New vehicle applications and cherished plates must be accompanied by the full log book, bill of sale or green slip.
- 5.27. Vehicle tax and MOT status will be confirmed online.
- 5.28. The previous Certificate of Compliance must be provided to the testing station when being produced for the compliance certificate.
- 5.29. New window acetate for fares to be displayed in Hackney Carriage vehicles.
- 5.30. Photographic evidence will be a requirement for accidents and damage to vehicles or alternatively an engineer's report.
- 5.31. Those licensed must notify the Council if any change of name or address or contact details within 14 days.
- 5.32. Guidelines on the Relevance of Convictions Appendix 1 - having regard to the Statutory Standards, the relevance of convictions has been updated to include lists of minor and major traffic offences, and offences up to 9 points on a DVLA

driving licence it is proposed to be dealt with under Officer delegation. (see point 33 on Appendix 1.

- 5.33. The Council operate an Intervention Scheme and have updated this process within Appendix 1 (point 33). It is proposed that Warnings stay live for a period of 1 year. Also that 3 stages are followed before referral to Licensing Committee. For non-compliance Stage 1 = Written Notice issued, Stage 2 = Formal Warning letter and Stage 3 = Officer Caution.
- 5.37. Medicals – Best Practice Guidance for Licensing Authorities in England document 2022 states that Licensing Authorities should apply the Group 2 Medical requirement. It is proposed that all applications and renewals require a medical assessment by a GMC registered medical practitioner at Group 2 standard. The assessment will be required on application and every 3 years.
- 5.38. Fire Extinguishers – it is proposed that Taxi and Private Hire Vehicles no longer be required to carry fire extinguishers. The National Fire Chiefs Council advice is that drivers get out and stay out of the vehicle and call 999 rather than attempting to fight a fire.
- 5.39. Vehicle Age Limits – currently taxis are licensed until 10 years old and Private Hire until 7 years old. Further consideration of age limits is detailed in section 6 of this report.
- 5.40. Certificate of Compliance – it is proposed that compliance testing will now take place annually as opposed to every 6 months. The Council would however reserve the right to request that vehicles undertake a further Certificate of Compliance assessment should the need arise.
- 5.41. Vehicle Identification and Signage – It is proposed to continue with livery on vehicles. Livery provides an element of safety particularly for vulnerable passengers. Passengers can identify the vehicle company through door panels. Therefore door panels will continue to be required however it is proposed that Hackney Carriage vehicles will only be required to display the current panel with a blank colour section below. It is also proposed that external front plates no longer be required on Private Hire Vehicles. The front plate will be replaced by an internal sticker which will be required to be placed in the top corner of the front window on the passenger side. The internal plate is being introduced due to the number of vehicles that have sensors in the front of the vehicle.
- 5.42. Driver Vehicle Condition Checks – Drivers of a vehicle have responsibility for its condition whilst in use. Driver's must conduct a daily walk around and complete the checklist provided. Drivers/Proprietors may be subject to enforcement actions if found using defective vehicles.
- 5.43. Electric/Hybrid Vehicles – The use of electric and hybrid vehicles as private hire and hackney carriage vehicles are fully encouraged and will be included in the vehicle specification in line with the Council's climate change ambitions.

6. Consideration of vehicle age limits

- 6.1. Officers and relevant members have engaged in preliminary discussions to identify an appropriate vehicle age limit for newly registered vehicles (both private hire and hackney carriages).
- 6.2. Following meetings and discussions between relevant members and officers, it has been agreed that the following vehicle age limit options should be put forward during the consultation:
 - 6.2.1. 5 year age limit (*no upper age limit, but must be Euro 6 compliant*);
 - 6.2.2. 8 year age limit (*no upper age limit, but must be Euro 6 compliant*);
 - 6.2.3. Unlimited vehicle age limit (*no upper age limit, but must be Euro 6 compliant*).
- 6.3. The latest national emission standards are Euro 4 Petrol and Euro 6 Diesel. Only 17 licensed vehicles remain which are Euro 5 Diesel, all of which are hackney carriages (see table at section 6.14). Euro 7 is set to be introduced in 2025.
- 6.4. Prior to any decision by members, appropriate consultation on the changes to the policy must take place with relevant consultees¹. This includes:
 - Residents
 - Staffordshire Police
 - Staffordshire Fire and Rescue Service
 - Staffordshire Safeguarding Board
 - Licence holders
 - Local Businesses
 - Representatives of the transport industry serving East Staffordshire
 - Environmental Health
 - Office of Fair Trading
 - Department of Transport
 - Public Health/Staffordshire County Council/Staffordshire NHS
 - Local Authority Testing Stations
 - Immigration

¹ <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards/statutory-taxi-and-private-hire-vehicle-standards#vehicle-licensing>

- 6.5. Once the consultation has taken place in accordance with the recommendations in this report, officers will prepare an options report for members to consider.

Retention of current vehicles:

- 6.6. So as to assist the trade, and once any new vehicle age limit is decided upon, any currently registered vehicle will continue to be licensed as long as they are of an appropriate condition, both mechanically and aesthetically.
- 6.7. However, any new vehicle subsequently registered by those proprietors at a later date would need to comply with the new vehicle age limit and must comply with current Euro Emission Standards.
- 6.8. On a similar note, officers have also been asked by the trade to consider an extension to the age limits of vehicles whilst this consultation is in progress. This will allow proprietors to retain and use their vehicles which are Euro compliant but have reached the *current* 7 (private hire) and 10 (hackney carriage) year age limit. This would be until the decision has been made on the age limit of the vehicles.
- 6.9. For information, the below table highlights the number of Council vehicles against previous and current Emission Standards:

Type of vehicle Licence	Overall number	Euro 5 or below	Euro 6 or above	Fully Electric
Hackney Carriage	107	17	90	0
Private Hire	342	0	342	0
Total	449	17	432	0

- 6.10. Attached to this report also at Appendix 3 are the results of a benchmarking exercise conducted by officers showing the vehicle age limits of neighbouring authorities.

7. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: Paul Frith / Anya Murray

- 7.1. The main financial issues arising from this Report are as follows:
- 7.2. In the event that vehicle age limits are extended, there is likely to be a need to increase enforcement activities which would potentially result in the need for additional enforcement officers and increased costs. These activities are not currently included in the fees being charged to licence holders.

- 7.3. Moreover, an increase in applications due to increasing the age of vehicles could also attract a need for more licensing officers if there is insufficient capacity in the licensing team to process applications. This may result in additional licensing officers being required, which would also have a cost impact.
- 7.4. The Council's corporate fees and charges policy sets out the process for review including full cost recovery of all the associated expenditure. There has been no increase in the 3 /5 year taxi licensing fees or vehicle licence charged since 2017, despite increasing costs associated with this activity.

8. Risk Assessment and Management

- 8.1. The main risks to this Report and the Council achieving its objectives are as follows:
- 8.2. **Positive** (Opportunities/Benefits):
- 8.2.1. The Council will have an updated document in place to advise applicants, officers of the Council and Licensing Committee when implementing the provisions of the Hackney Carriage and Private Hire Policy;
- 8.2.2. The reviewed policy ensures the consistency of the licensing function with current standards;
- 8.2.3. Accepting a higher vehicle age limit would be a positive step for the hackney carriage and private hire trade and might assist those remaining 17 drivers with the transition to current Euro Emission Standards and beyond;
- 8.2.4. The reduction in compliance checks for vehicles would result in less cost to drivers and would be supportive to the trade;
- 8.2.5. Possible increase in licence registrations as a result of a more flexible vehicle policy would create income for licensing;
- 8.2.6. A more favourable policy could mean that drivers are more inclined to obtain a licence with the Council; noting also that taxi's from other districts are not required to have a licence to operate in East Staffordshire;
- 8.2.7. The provision of public transport reduces the need for car ownership. A policy that promotes higher quality transport options could reduce the need for vehicle ownership and be better for the environment;
- 8.2.8. Having no upper age limit will mean that licensed vehicles can remain licenced as long as they are of an appropriate condition.

8.3. **Negative** (Threats):

8.3.1. Failure to review and adopt the Policy in a timely manner exposes the Council to the risk of challenge;

8.3.2. An overly strict policy could mean that operators and drivers decide to obtain their licences with other authorities, consequently the Council has reduced enforcement control. A reduction in control limits the Council's ability to ensure the safety of vehicles and the travelling public.

8.3.3. The ability to licence older vehicles may result in increased enforcement and the subsequent need to invest in additional enforcement officers; indeed any failure of the Council to effectively discharge its licensing enforcement functions may compromise public safety;

8.3.4. If the authority does not seek to lower harmful emissions wherever possible there is a potential risk to health;

8.3.5. Failing to act to lower emissions where possible has a reputational risk for the Council. Increasing vehicle age limits alongside removing the upper age limit may result in increased emissions. However, as vehicles will be guaranteed Euro 6, the impact is perhaps mitigated somewhat;

8.3.6. The decision on vehicle age limits could have a bearing on local air quality. This will depend on the decided age limit.

8.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

9. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:
[John Teasdale]*

9.1. The main legal issues arising from this Report are as follows:

9.2. The Council is responsible for the regulation of Hackney Carriage and Private Hire licensing in the Borough.

9.3. A policy is necessary to ensure proper regulation of the trade and ensure that high standards are maintained. In order for such a policy to be fit for purpose, it needs to be regularly reviewed and amended to reflect change, so that regulation of the trade is consistent and remains effective. Regulation is essential to ensure effective safeguarding in the Borough.

9.4. Failure of the Council to properly regulate Hackney Carriage and Private Hire licensing in the Borough and the failure to maintain a policy that is fit for purpose leaves the Council and any decisions made in relation to licensing open to legal

challenge. Any such challenge carries both financial and reputational risk for the Council.

- 9.5. The Council must be able to demonstrate effectiveness of the policy and provide confidence and reassurance regarding its implementation.
- 9.6. Consultation is a vital part of the process. Any consultation should be carried out over a sufficient period of time and in line with the Council's strategy on communication, engagement and consultation, and the Gunning Principles.

10. Equalities and Health

- 10.1. **Equality impacts:** The subject of this Report is a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is attached at Appendix 4.
- 10.2. **Health impacts:** The outcome of the health screening question requires a full Health Impact Assessment to be completed. An equality and health impact assessment is attached at Appendix 4.

11. Data Protection Implications – Data Protection Impact Assessment (DPIA)

- 11.1. A DPIA must be completed where there are plans to:
 - use systematic and extensive profiling with significant effects;
 - process special category or criminal offence data on a large scale; or
 - systematically monitor publicly accessible places on a large scale
 - use new technologies;
 - use profiling or special category data to decide on access to services;
 - profile individuals on a large scale;
 - process biometric data;
 - process genetic data;
 - match data or combine datasets from different sources;
 - collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
 - track individuals' location or behaviour;
 - profile children or target marketing or online services at them; or
 - process data that might endanger the individual's physical health or safety in the event of a security breach
- 11.2. Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA.

12. Human Rights

- 12.1. There are no Human Rights issues arising from this Report.

13. Sustainability (including climate change and change adaptation measures)

13.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures): Yes.

13.2. Please detail any positive/negative aspects:

13.2.1. Positive (Opportunities/Benefits)

- Vehicles registered with the Council at a younger age would have a smaller CO2 footprint;
- Newer vehicles create the potential to improve local air quality over time;
- Newer vehicles are generally expected to be safer, cleaner and more efficient;
- The Council through its policy would be ensuring that vehicles will comply with the latest emission standards.

13.2.2. Negative (Threats)

- Licensing older vehicles could be considered contrary to climate change responsibilities and ambitions; noting however that all newly registered vehicles must be Euro 6 compliant, the current highest standard;
- Older vehicles are generally considered to create a greater CO2 footprint;
- Licensing older vehicles may result in a reduction in vehicle safety/condition and efficiency; but all vehicles will be subject to ongoing supplementary checks to maintain vehicle standards in accordance with the policy;
- The ability to licence older vehicles could have a negative bearing on local air quality.

14. **Recommendation(s)**

14.1. It is recommended that the draft revisions to the Policy, along with the vehicle age options in paragraph 6.2, be consulted upon for 6 weeks.

14.2. Following the consultation exercise the results will be brought back before the Licensing Committee prior to recommendations to Full Council.

15. **Background Papers**

15.1. [Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

15.2. [Taxi and Private Hire Vehicle Licensing. Best Practice Guidance for Licensing Authorities in England. \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

15.3. [Local Government \(Miscellaneous Provisions\) Act 1976 \(legislation.gov.uk\)](http://legislation.gov.uk)

15.4. [Town Police Clauses Act 1847 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

16. **Appendices**

16.1. Appendix 1: Proposed Policy – 2023-2028

16.2. Appendix 2: Benchmarking exercise: Comparing the age limits stipulated in neighbouring authorities

16.3. Appendix 3: Equality and Health Impact Assessment (EHIA)