

TRAFFORD COUNCIL

Report to: Executive
Date: 15th November 2023
Report for: Noting
Report of: Executive Member for Communities and Safety

Report Title

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2023

Summary

The Council, as the Licensing Authority under the Town Police Clause Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, has responsibility for the licensing of Hackney Carriages and Private Hire vehicles, drivers and operators within its district.

In July 2020 the Department for Transport published its Statutory Taxi and Private Hire Vehicle Licensing Standards. In the Standards the Department recommended that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire licensing.

Officers have prepared a draft policy which brings together all the Council's current policies and procedures into one document; including amendments to the policies and conditions in respect of the Greater Manchester Minimum Licensing Standards which were adopted by the Council in 2021.

The report proposes the Council adopt this new overarching Hackney Carriage and Private Hire Licensing Policy to be effective from the 1st December 2023; and to be reviewed every five years.

Recommendation(s)

It is recommended that the Executive:

1. Note the content of the report; and
2. recommends to Council that it approve the proposed Hackney Carriage and Private Hire Licensing Policy which includes the amendments detailed at 3.19; and
3. recommends to Council that authority be delegated to the Corporate Director of Place, in consultation with the Executive Member for Communities and Safety to bring the implementation date for vehicle age and emission standards (for existing licensed vehicles) forward from 1st April 2026 should it be deemed

appropriate in support of the Clean Air agenda.

Contact person for access to background papers and further information:

Name: Joanne Boyle

Contact: joanne.boyle@trafford.gov.uk

Relationship to Policy Framework/Corporate Priorities	<i>The Policy aligns closely with our priorities on Health & Well-being and Carbon Neutrality. Its aim is to ensure that our policies and procedures are consistent, appropriate and fair and in line with best practice nationally. It accords with the Council's policy and budget framework and supports the development of an effective and efficient Council.</i>
Relationship to GM Policy or Strategy Framework	<i>The Greater Manchester Minimum Licensing Standards for Taxi and Private Hire is a GM wide initiative, led by the Greater Manchester Licensing Managers Network on behalf of the ten districts.</i>
Financial	<i>Revenue and Capital: The Licensing Regime is a self-funded service. Any additional resource implications will be addressed through the annual fee review.</i>
Legal Implications:	<i>Whilst there is no legal duty specifically placed on the Council to consult with respect to this policy, it is good practice to do so and is in line with the Department for Transport's (DfT) 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010). The policy, if agreed by the Council, will be implemented and form the basis on which decisions are made on applications received by the Council.</i>
Equality/Diversity Implications	<i>Equality Impact Assessment is attached at Appendix D.</i>
Sustainability Implications	<i>The Policy supports the GM Clean Air Plan which is consistent with and will support delivery of the Council's Carbon Neutral Action Plan 2020 and the aims and objectives relating to the Council's Climate Emergency declaration.</i>
Carbon Reduction	<i>The Policy encourages the move from petrol/diesel to electric vehicles which will have a positive impact on carbon.</i>
Resource Implications e.g., Staffing / ICT / Assets	<i>There are no implications for ICT and Assets as a consequence of this report. The staff time implications have been identified and processes will be amended.</i>
Risk Management Implications	<i>Risk to delivery of the interventions detailed within the new policies and procedures will be monitored</i>

	<i>and updated as required.</i>
Health & Wellbeing Implications	<i>The basic rationale of the MLS is that it will improve standards of safety for the travelling public and the improvements to the vehicle fleet will support the objectives of the CAP in that it will improve health and wellbeing across the borough through improving air quality</i>
Health and Safety Implications	<i>As set out above the new standards have public safety as a core objective.</i>

1. BACKGROUND

- 1.1 In 2018, Greater Manchester's ten local authorities agreed to collectively develop, approve and implement a common set of Minimum Licensing Standards (MLS) for taxi and private hire services.
- 1.2 At that time, the primary driver for this work was to ensure public safety and protection, but vehicle age and emission standards in the context of the Clean Air and the decarbonisation agendas were also major considerations.
- 1.3 This collaborative approach sought to establish a basic and common minimum in key areas, whilst allowing Districts to exceed these minimums where they considered this to be appropriate. As licensing is a local authority regulatory function, the standards were devised by the Greater Manchester (GM) Licensing Managers Network.
- 1.4 The GM MLS was ready to be consulted on when the Department for Transport published statutory guidance for taxi and private hire licensing authorities in July 2020. In the Standards the Department recommended that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards. The Department went on to state that when formulating a taxi and private hire policy, the primary and overriding objective must be to protect the public.
- 1.6 A GM wide public consultation took place between 8 October and 3 December 2020 on the MLS proposals. In Trafford an additional consultation exercise was undertaken on a proposed overarching Hackney Carriage and Private Hire Licensing Policy incorporating the MLS.
- 1.7 Due to the breadth of the proposals, following the consultation it was decided that the MLS should be reported to full Council in two stages; and that the decision on an overarching Hackney Carriage and Private Hire Licensing Policy be deferred until all the MLS recommendations had been approved and implemented.
- 1.8 On the 13th October 2021 the Council approved the Stage 1 recommendations on the Driver, Operator and Local Authority Standards and on the 24th November 2021 it approved the Stage 2 recommendations on Vehicle Standards.

- 1.9 It has been 2 years since the Council approved Stage 1 and 2 of the Minimum Licensing Standards as part of the harmonisation of standards project across Greater Manchester (GM). These standards are still not fully adopted or implemented in large part due to the continued delay of the Clean Air Plan which has in turn delayed access to Clean Taxi Funds upon which many policy decisions are dependent.
- 1.10 In view of these delays Officers decided to move forward with plans for an overarching policy and have now prepared a document which brings together all the Council's current policies and procedures. The proposed policy includes amendments to the policies and conditions in respect of the Greater Manchester Minimum Licensing Standards which were adopted by the Council in 2021 for reasons which are explained further in the report.
- 1.11 The purpose of the policy is to explain how the Council undertakes its functions when licensing hackney carriage and private hire vehicles, drivers and operators. The primary focus being on safeguarding and public protection; particularly, the protection of children and vulnerable adults in accordance with the recommendations of the Statutory Guidance.
- 1.12 The policy explains the process for applying for licences; what checks the Council will carry out and how it will determine applications including the checking of criminal records; requiring medical reports for drivers and checking their right to work. It explains how it will manage a Local Area Knowledge Test for new drivers; assess standards of English speaking and listening; and conduct induction training for all new drivers covering topics of equality, safeguarding, modern slavery and compliance with licence conditions. The Policy also explains how the Council will enforce against non-compliance with licence conditions by way of an internal Penalty Points System and when it will refer matters to the Public Protection Sub-Committee for consideration.

2. CONSULTATION

- 2.1 Although there is no statutory requirement for the Council to consult on the policy, it is considered best practice and gives those affected time to read the policy and consider what steps they may need to take to comply. It also gives opportunity for comments to be made on how the policy could be improved.
- 2.2 The Council consulted all stakeholders on the proposed Hackney Carriage and Private Hire Licensing Policy between the 6th July 2023 and the 31st August 2023. The Council notified stakeholders that it was not consulting on those elements of the MLS that had previously been consulted on and which were adopted in 2021. However, all the responses received relate to the policies previously adopted by Trafford as part of the MLS. Therefore, it was felt appropriate that this report include the areas within the MLS about which the trade have again raised concerns; and the policy revisions the Council may want to consider in view of the recent policy changes adopted by other GM Licensing Authorities.

3. SUMMARY OF RESPONSES

- 3.1 The Council received eight responses to the consultation. The main areas of concern were:

Vehicle Signage

- 3.2 The Council approved the following standard as part of the MLS on the 24th November 2021 – See also Appendix C:

To require that all vehicles will:

- display permanently affixed licence plates on the front and back of the vehicle
- display a 'GM approved' sticker on the bonnet

To require that all PHVs will:

- only display stickers provided by the licensing authority (at cost) which will bear the operator name, 'advanced bookings only', 'not insured unless pre-booked' and the licensing authority logo
- display those stickers on both rear side doors and the back window
- not use any magnetic stickers

- 3.3 This current policy was introduced in order to make legitimately licensed vehicles more distinguishable and safeguard against the risk of individuals getting into unlicensed vehicles with unlicensed drivers. This livery also made it easier for compliance and other authorised officers to quickly identify licensed vehicles and note which operator they were working through.
- 3.4 It is important to remember that the way vehicles were ordered and dispatched only a few years ago was considerably different to the most common operating models today where Private Hire Operators use mobile applications and text messaging services to provide customers with details of the driver and vehicle they have dispatched.
- 3.5 Trafford's current policy by default means that our licensed vehicles can only work for one operator at a time. Private hire drivers regularly approach officers explaining that changes to operator business models means it is almost impossible to make a reasonable standard of living whilst working for only one operator at a time. Drivers complain of over-supply in the local market and regularly state that the reason they are leaving Trafford to license with other local authorities is because they need to be able to work for more than one operator.
- 3.6 Also, the consultation highlighted driver's concerns about vehicles being targeted with criminal damage and other anti-social behaviour; and their request for a reduced signage requirement in order to reduce this risk.
- 3.7 The current Department for Transport (DfT) Best Practice guidance issued in 2010 referred to the benefits of having clear identification on private hire vehicles to ensure the public can distinguish between a private hire vehicle and a taxi (hackney) and avoid confusion between the two modes of travel:

... requiring some additional clearer form of identification can be seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver; and secondly because it is quite reasonable, and in the interests of the travelling public, for a PHV operator to be able to state on the vehicle the contact details for hiring;

- 3.8 In the DfT's draft revised Best Practice Guidance consulted upon in 2022, the Government changed their proposed approach:
- *... licensing authorities should seek to minimise the profile of private hire vehicles as these can only be legally engaged through a booking with a licensed operator.*
 -

- *Licensing authorities should not impose a livery requirement on private hire vehicles. The more distinctive a private hire vehicle is made to appear, the greater the chance this might be confused with a taxi.*
-
- *Licensing authorities' private hire vehicle signage requirements should be limited to the authority licence plate or disc and a "pre-booked only" door sign. This approach enables passengers to be given a clear and consistent message that you should only get in a vehicle that 'looks like a taxi' unless [sic] you have pre-booked a private hire vehicle and have received information from the operator to identify it. A private hire vehicle driver and proprietor are free to work with more than one operator and licensing conditions or requirements that effectively tie a vehicle or driver into an exclusive relationship with an operator should not be implemented or should be discontinued where these are currently imposed.*

3.9 Whilst this draft revised guidance is not yet finalised and published, it gives a good indication of the DfT's current thinking with regards to private hire livery. The guidance does not address any risk associated with unlicensed drivers and vehicles.

3.10 Officers consider that signage on private hire vehicles is still necessary to help passengers identify their pre-booked vehicle; remind passengers that private hire vehicles must be pre-booked; mitigate the risk of bogus drivers and vehicles posing as legitimately licensed and help distinguish private hire vehicles from taxis.

3.11 Whilst having the Operator name visible for compliance officers would be preferable and makes investigating incidents and potential offences much easier, it is accepted that this restricts drivers and is a barrier for drivers being licensed with Trafford. Operators could be given the option of having stickers bearing their company name if they so wish.

3.12 As such it is considered that the current policy could be revised but still adhere to the following principles:

- Advise passengers that the vehicle must be pre-booked with the Operator;
- Remain non-magnetic so they cannot be easily transferred to non-licensed vehicles;
- Reduce the required number of stickers to mitigate the risk of vehicles being targeted for anti-social behaviour;
- Not restrict drivers to only working for one operator;
- Include the Trafford logo.

3.13 Officers consider that the wing and rear window Operator sticker requirements could be removed, as well as the bonnet sticker which could be replaced by a rear door sticker issued by the Council displaying the Council logo and the wording *Private Hire Vehicle – Not insured unless pre-booked with the Operator*. The requirement to display a front and rear plate to be retained. Operators could request permission to place additional signage with the Council if desired.

3.14 This would accord with recent amendments to policy adopted by Manchester, Oldham, and Wigan Councils.

Vehicle Age – coming onto the Fleet

3.15 The current age policies in Trafford are:

- Private Hire Vehicle – under 5 years on to fleet and 10 years off
- Private Hire Vehicle (Wheelchair Accessible) – under 7 years on to fleet and 15 years off
- Purpose built Hackney Carriage – under 7 on to fleet and 15 years off
-

3.16 These policies were approved by the Council on the 24th November 2021 as part of the MLS Stage 2 and had also been adopted by 6 other GM districts. The rationale for having a coming on to fleet age limit was to encourage proprietors to license newer, more energy efficient vehicles and safeguard against having a majority of the fleet at the older end of the age limit.

3.17 However this policy proposal was initially put forward before the pandemic and subsequent cost-of-living crisis and in recent months GM districts have come under increasing pressure to revise the coming on to fleet maximum age requirement. In June 2023 Oldham Council decided to remove this requirement; and in July 2023 Manchester also followed suit. Other GM authorities are also considering this option.

3.18 Officers consider that there is no clear public safety benefit to requiring proprietors to purchase a vehicle less than 5 (private hire) and 7 (hackney) years old when first licensing that vehicle and recognise the financial burden it places on licensees if they are struggling to replace their existing vehicle. As such it is recommended that this requirement be removed.

3.19 Summary of proposed amendments to the Policy:

Section	Amendment
Vehicle Signage	<p>To require that all licensed vehicles will:</p> <ul style="list-style-type: none"> • display permanently affixed licence plates on the front and rear of the vehicle. <p>To require that all PHVs will:</p> <ul style="list-style-type: none"> • only display stickers provided by the licensing authority (at cost) which will bear the Council's logo and the wording '<i>Private Hire Vehicle – Not insured unless pre-booked with the Operator</i>'. Operators may request permission to place additional signage with the Council if desired i.e. Operator name; • display those stickers on both rear side doors; • not use any magnetic stickers; • not use a roof-sign.
Vehicle Age	Remove the requirement for a coming on to fleet age limit for both Hackney Carriage and Private Hire vehicles.
Private Hire Driver Conditions (Appendix L in the Policy)	Amend (2.1) to read: The licensee shall notify the Council immediately in writing (or in any case within 48 hours) if they

	<p>are subject to any of the following:</p> <ul style="list-style-type: none"> • arrest or criminal investigation, • summons, • charge, • conviction, • formal/simple caution, • fixed penalty, etc...
Relevance of Convictions and Cautions (Introduction in the Policy)	<p>Amend (3.2) to read: The Licensing Authority will conduct background checks on applicants who have (from the age of 18) spent 6 continuous months or more living outside of the UK – this includes requiring a certificate of good conduct authenticated by the relevant embassy as necessary.</p> <p>See the <u>Criminal record checks for overseas applicants</u> for more information on applying for overseas criminal record information or certificate of good character.</p>
Advertising (Introduction in the Policy)	<p>Amend (2.6) to read: Applications for approval of advertisements to be displayed on hackney carriage vehicles must be made in writing to the Authority</p>
Private Hire Operator Conditions (Appendix N in the Policy)	<p>Remove paragraph 7.2:</p> <p>All advertisements by the Operator should first be approved by the Council to ensure they comply with conditions and do not breach the Codes of Practice of the Advertising Standards Authority or those of the Portman Group relating to alcohol advertising.</p>

4. REVIEW & DELEGATION

- 4.1 It is proposed that the Council review, consult on and approve a Hackney Carriage and Private Hire Licensing Policy every five years unless in the view of the Corporate Director of Place; or the Executive Member for Communities and Safety; or the Chair of the Public Protection Sub-Committee the matter should be referred to full Council sooner.
- 4.2 On the 15th March 2023 the Council agreed to extend the implementation date for the age and emission standards for the existing fleet to 1st April 2026; with the caveat that if there were further delays to the introduction of the Clean Air Plan and taxi funding support package the Corporate Director of Place had delegated authority to extend the implementation date to the 1st April 2027.
- 4.3 Transport for Greater Manchester and Government are still in discussion about how to achieve clean air compliance across the region. In order to support these discussions all 10 GM authorities are being asked to agree an emission standard for new and existing taxi and

private hire fleets; and to consider the possibility of implementing the standard sooner than the 1st April 2026.

- 4.4 In view of these on-going discussions and the uncertainty about the final implementation date, it is proposed to amend the current delegation to allow the Corporate Director of Place in consultation with the Executive Member for Communities and Safety to bring forward the implementation date for introduction of the age and emission standard where it is deemed appropriate.

5. EQUALITY IMPACT ASSESSMENT

- 5.1 The Equality Impact Assessment (EIA) showed that there were both positive and negative impacts of the proposals. The main positives are that this provides for greater protection for vulnerable people from harm and should also increase the accessibility of the fleet for disabled persons. The contrary issues are that the higher standards may make access to becoming a driver more costly and therefore may reduce the fleet size and therefore mean that there are less taxis available and people may be more tempted to use non licensed vehicles. There are three ways that this impact can be lessened; namely by ensuring that the drivers have adequate time to adjust to the new standards and that adequate funding support packages are available; and also that we publicise the benefits of taking a Trafford licensed vehicle.

6. OPTIONS

- 6.1 The Council has three options:
- accept as initially proposed;
 - accept with suggested amendments as outlined in the report; or
 - it could decide not to accept the proposals.
- 6.2 If the Council decides not to adopt the proposed Policy this would not prevent it from continuing to carry out its statutory licensing functions; however, it could open up the possibility of challenges to the Council's processes and procedures on the basis that they are not clear or consistent.
- 6.3 It is the view that to adopt the policy as a whole, with the amendments as outlined in this report, would be the best approach for Trafford given that the proposals focus on best practice; is consistent with the approach taken by other GM Authorities; and is in accordance with the recommendations of the DfT's Statutory Guidance on Hackney Carriage and Private Hire Vehicle Licensing.

7. RECOMMENDATIONS

- 7.1 It is recommended that the Executive:
- Note the content of the report; and
 - recommends to Council that it approve the proposed Hackney Carriage and Private Hire Licensing Policy with the above amendments.
 - recommends to Council that authority be delegated to the Corporate Director of Place, in consultation with the Executive Member for Communities and Safety to

bring the implementation date for vehicle age and emission standards (for existing licensed vehicles) forward from 1st April 2026 should it be deemed appropriate in support of the Clean Air agenda.

8. APPENDIX A – Proposed Hackney Carriage and Private Hire Licensing Policy

8.1 Attached as a supplementary paper.

9 APPENDIX B – Summary of Consultation Responses

9.1 Attached as a supplementary paper.

10. APPENDIX C - Vehicle Standards Approved on 24th November 2021

10.1 Attached as a supplementary paper.

11. APPENDIX D - Equality Impact Assessment

11.1 Attached as a supplementary paper.

Key Decision (as defined in the Constitution): No
If Key Decision, has 28-day notice been given? N/A

Finance Officer Clearance: PC

Legal Officer Clearance: SL

[CORPORATE] DIRECTOR'S SIGNATURE



To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.