



Report to: Licensing and Environmental Health Committee, 11 Dec 2023

Report of: The Head of Worcestershire Regulatory Services on behalf of Worcester City Council

Subject: RENEWAL OF LICENCES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES – INSURANCE WRITE OFFS

1. Recommendation

That Committee:

- 1.1 Notes the contents of the report, and in particular the impact the current hackney carriage and private hire vehicle policy is having on existing vehicle licence holders whose vehicles have been previously written off.**
- 1.2 Approve the undertaking of a 4 week public consultation exercise on a proposal to amend the Council's Hackney Carriage and Private Hire Licensing Policy as set out at Appendix 2.**
- 1.3 Delegates authority to the Corporate Director (Operations, Homes & Communities) in consultation with the Chair and Vice Chair of Licensing & Environmental Health Committee to make a final decision in respect of the proposed policy changes referred to in recommendation 1.2, subject to the review of consultation feedback.**

2. Background

- 2.1 The Council is responsible for the issuing of licences to authorise people to use vehicles as hackney carriages or private hire vehicles.
- 2.2 The Councils current Hackney Carriage and Private Hire Vehicle Policy took effect from 1st September 2022. The current policy was updated to include requirements in respect of the licensing of vehicles to be used as a hackney carriage or private hire vehicle. The relevant part of the Policy is included at **Appendix 1**.
- 2.3 One of the changes that the current policy includes is a stipulation that the Council would no longer licence any vehicle to be used as either a hackney carriage or private hire vehicle if it has been graded as a Category A, Category B or Category C, or a Category S write-off for insurance purposes. Paragraphs 3.1.10 and 3.2.6 of the policy set this out in respect of those vehicles being licensed by the Council to be used as a hackney carriage or private hire vehicle for the first occasion.
- 2.4 The policy goes on to state that the Council will not renew any licence to use a vehicle as a hackney carriage if the vehicle has been graded as a Category A, Category B,

Category C or Category S write-off for insurance purposes. Paragraphs 3.3.9 and 3.4.6 of the policy are the relevant paragraphs in this respect. Members should note that the Council's previous vehicle licensing policy was silent on this matter.

- 2.5 The wording currently used in paragraphs 3.3.9 and 3.4.6 of the current policy means that vehicles that were licensed before September 2022 that had been previously graded as a Category A, Category B or Category C or Category S write-off no longer comply with the Council's policy, even though the vehicle had been licensed for several years without any issues arising.
- 2.6 As the vehicles no longer comply with the Council's policy, officers are unable to determine these renewal applications under delegated powers and now need to refer the applications to Licensing Sub-Committees to be determined. This has the potential to lead to a large increase in the number of applications for renewal of vehicle licences that will have to be referred to Licensing Sub-Committees to be determined.
- 2.7 During the period prior to the introduction of the current policy, all hackney carriage and private hire vehicles were required to undergo the required safety checks, which included the twice-yearly mechanical safety inspection at the Council appointed vehicle testing station.
- 2.8 Now that the unintended consequence of the policy change has come to light, Officers have identified around 30 vehicles (renewal applications) which will need to be referred to the Licensing Sub-Committee.
- 2.9 Officers have deferred these sub-committee meetings until the end of January 2024, to allow time for this Committee to debate the unintended consequence of the current Policy and to consider whether it wishes to consult on a proposed change to return the council to its previous policy position on written off vehicles.
- 2.10 It is important to note that although these vehicles can continue to operate during this interim period, officers are ensuring that these vehicles are still being checked by the Council's appointed testing station to ensure that they meet all other Council standards and safety requirements until such time that the applications can be considered.
- 2.11 It is estimated that of the 320 hackney carriage and private hire vehicles currently licensed by the Council, 25% of these vehicles have been graded as a Category A, Category B or Category C or Category S write-off.
- 2.12 As it currently stands, were these vehicle renewal applications to be considered by a Licensing Sub-Committee, and should that Committee be minded to grant a licence, this would be a deviation from current policy.
- 2.13 Officers believe that when approving the new Hackney Carriage and Private Hire Vehicle Policy, Members had in fact intended for there to be a gradual phasing out of the licensing of vehicles (due to age limits) that have been graded as a Category A, Category B or Category C, or Category S write-off rather than intending to stop licensing all such vehicles when the relevant licences were next due to be renewed.
- 2.14 Officers believe that this intention could be achieved by making minor amendments to the wording contained in paragraphs 3.3.9 and 3.4.6 of the policy. Proposed alternative wording has been drafted and is included at **Appendix 2**.

3. Preferred Option

- 3.1 The preferred option is for members to consider the implications of the current policy and direct officers to undertake a 4 week consultation exercise, on amending the wording contained in Paragraphs 3.3.9 and 3.4.6 of the Council's Hackney Carriage and Private Hire Vehicle Policy to that shown at **Appendix 2**.
- 3.2 It is proposed to delegate the final decision to the Corporate Director (Operations, Homes & Communities) in consultation with the Chair and Vice Chair of Licensing & Environmental Health Committee (having reviewed the consultation feedback) so that a decision can be made in a timely manner, rather than having to wait until the next committee date of 4th March 2023.

4. Alternative Options Considered

- 4.1 An alternative option is to make no changes to the current policy. This will result in the requirement for any currently licenced vehicle which has been graded as a Category A, Category B or Category C or Category S write-off, being referred to the Licensing Sub-Committee for consideration and determination upon renewal of licence.

5. Implications

Financial and Budgetary Implications

- 5.1 The costs incurred in carrying out the consultation exercise will be met from existing budgets held by Worcestershire Regulatory Services.

Legal and Governance Implications

- 5.2 The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, gives the Council the authority to licence both hackney carriage and private hire vehicles. In doing so, the Council can go on to specify the size, type, and design of the vehicles it wants licensed in its controlled area.
- 5.3 In line with the above legislation, the Council may also attach conditions it considers reasonably necessary to any vehicle licence it issues, to ensure that vehicles are both safe and suitable for the transportation of the general public.
- 5.4 Consultation on the proposals referred to in this report to amend Council's policy will be undertaken. It is proposed that the consultation will take place with licence holders, relevant stakeholders, and the general public over a 4-week period. Any responses received will be considered by the Corporate Director (Operations, Homes & Communities) in consultation with the Chair and Vice Chair of Licensing & Environmental Health Committee prior to a final decision in respect of the implementation of the amended minor policy wording proposals taking place.
- 5.5 The Department for Transport "Taxi and Private Hire Vehicle Licensing: Best Practice guidance" further states:

"It is good practice for local authorities to consult about any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, or Chambers of Commerce, organisations with a wider

transport interest (eg the Campaign for Better Transport and other transport providers), women's groups or local traders"

Risk Implications

- 5.6 There is a possible reputational risk to the Council, as the new hackney carriage and private hire licensing policy, introduced in September 2022, appears to have unintended consequence effecting many existing vehicle licence holders. This may result in members having to deviate away from the current policy position, when determining vehicle licence renewal applications and could possibly lead to further legal challenge.
- 5.7 When introducing new, or amending existing Council policy, it is recommended that public consultation is undertaken on that policy, to minimise any risk of legal challenge.

Corporate/Policy Implications

- 5.8 All regulatory policies relating to Environmental Health and Licensing approved by Worcester City Council should comply with the Regulators Code. The Regulators Code is made under the provisions of the Legislative and Regulatory Reform Act 2006. It seeks to promote proportionate, consistent, and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

Equality Implications

- 5.9 In its consideration of this report and its recommendations, the Council must have due regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:
- a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.
- 5.10 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 5.11 Officers having assessed the above, conclude that the proposed minor amendments to policy, do not adversely impact or unlawfully discriminate against any protected characteristics.

Human Resources Implications

- 5.12 No human resource implications have been identified.

Health and Safety Implications

- 5.13 All other criteria that would be applied to vehicles in respect of physical condition, visual condition, safety, and signage etc will remain unchanged and therefore there are not considered to be any health & safety implications associated with this report.

Social, Environmental and Economic Implications

5.14 The minor proposed wording amendments to the Council's vehicle policies will permit a straightforward process of licensing for existing hackney carriage and private hire vehicle owners.

Ward(s): All

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Background Papers: None