

# Somerset West and Taunton Council

## Licensing Committee – 20<sup>th</sup> March 2023

### Proposal to make changes to hackney carriage and private hire licensing policy

This matter is the responsibility of Executive Councillor Andrew Sully

Report Author: John Rendell

#### 1 Executive Summary / Purpose of the Report

- 1.1 Members to consider proposals to harmonise aspects of the Council's legacy hackney carriage and private hire licensing policies for the former Taunton Deane and West Somerset districts, aligning them more closely with government best practice in the process.

#### 2 Recommendations

- 2.1 Resolve to make the changes to the two taxi and private hire licensing policies as listed in **Appendix A**, to:

- Remove hackney carriage and private hire vehicle age restrictions.
- Make roof signs mandatory for hackney carriages but prohibit their use on private hire vehicles completely.
- Increase the frequency of driver medical checks.
- Allow vehicles with rear wheelchair loading facilities to be licensed as hackney carriages and private vehicles in the West Somerset area, as they are already in the Taunton Deane area.

#### 3 Risk Assessment

- 3.1 The contents of this report do not relate to any of the risks identified in the Corporate Risk Register.

#### 4 Background and Full details of the Report

- 4.1 The Council is responsible for licensing hackney carriages (more commonly known as 'taxis'), private hire vehicles, their drivers and private hire operators that operate within the district. The power to issue licences are held within the Town Police Clauses Act 1847 Part II of the Local Government (Miscellaneous Provisions) Act 1976.

4.2 These Acts give the Council almost complete discretion when determining the suitability of drivers, taxis and private hire vehicles and private hire operators. Likewise, when attaching conditions to said licences. There are no national minimum standards, though the Department for Transport (DfT) has published [best practice guidance](#), last updated in 2010 although currently under review. As a result, arrangements and standards vary across licensing authorities. Somerset West and Taunton's (SWT) approach to determining applications and attaching conditions is documented across two legacy policies adopted by the two predecessor councils:

- [Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook for the former Taunton Deane borough area.](#)
- [Hackney Carriage/Private Hire Regulations for the former West Somerset district area.](#)

4.3 The effect of having the two policies is that two separate taxi and private hire licensing districts or 'zones' have been maintained since the formation of SWT, between which rules differ. Harmonisation of the policies has been a priority for the service since the formation of the new Council however, only a small number of elements of the two policies have been harmonised to date, the most recent being the adoption of standards for motorised tricycles used as private hire vehicles (adopted earlier this year). Harmonisation of policy remains a priority with the formation of the new Somerset Council next year.

4.4 Naturally, the differences between the rules and arrangements for the former Taunton Deane and West Somerset areas has generated some discussion between Officers with the Licensing service and the licensed trade who, understandably, would like things to be consistent and fair for all businesses across the SWT area. There are four areas of policy which have been identified as needing harmonisation as a priority, ahead of the formation of the new Somerset Council:

- 1) Vehicle age restrictions.
- 2) Rules on vehicle roof signs.
- 3) Frequency of driver medical checks.
- 4) Wheelchair loading vehicle restrictions.

4.5 There has been formal consultation with the all driver, vehicle and operator licence holders, between the 16<sup>th</sup> of May and 12<sup>th</sup> of June 2022. This was carried out via email, with responses attached at **Appendix B**. The proposals have also been part of discussions at the eight weekly meetings of the 'Taxi and Private Hire Trade Forum' which is organised by the Licensing Manager.

#### Proposal 1: Remove taxi and private hire vehicle age restrictions

4.6 The DfT best practice states that *"It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old."*

4.7 This best practice is in the process of being revised, but the published draft continued to encourage councils to move away from age restrictions, placing greater emphasis on

things like emissions policies and drivers conducting their own checks.

- 4.8 Currently, the West Somerset area policy has tighter restrictions on the age of vehicles. Hackney carriages and private hire vehicles must be no more than 3 years old from the date of registration, at the point that they are to be licensed for the first time. Purpose built wheelchair accessible vehicles may be up to 4 years old. Licensing Officers have the discretion to approve vehicles up to 5 years old if the following criteria can be met:
- No more than average mileage (calculated at 12,000 miles per year).
  - Good bodywork (no dents, scratches or evidence of accidents).
  - Evidence of complete full-service history.
  - Complies with all the other regulations and conditions.
- 4.9 Vehicles that are more than 10 years old *“will not generally be licensed”*.
- 4.10 Under the current Taunton Deane area policy, hackney carriages and private hire vehicles must be no more than 7 years old from the date of registration, at the point that they are to be licensed for the first time. There is no age restriction on ‘specialist’ and ‘novelty’ vehicles, or vehicles which have been extensively modified to be accessible to disabled persons.
- 4.11 Across both areas and as part of the process of determining an application for a hackney carriage or private hire vehicle licence, the applicant must submit proof that the vehicle has recently passed an MOT and the Council’s own ‘plate test’. The plate test is designed to determine both the safety and comfort of the vehicle, by looking at things the MOT does not. The MOT pass that accompanies the application may be from an Driver and Vehicle Standards Agency (DVSA) testing station, whilst the plate test can only be taken at testing stations nominated by the Council. Together, the MOT and plate test is evidence and reassurance to the Council, that the vehicle identified in the application is both safe and suitable to be used as a hackney carriage or private hire vehicle, having been checked by suitably qualified vehicle testers.
- 4.12 Whilst there are restrictions on how old a vehicle can be before it becomes a hackney carriage or private hire vehicle, oddly, there is no upper limit once they are licensed. Vehicle licences are currently be issued for up to one year in length but can be renewed year on year, for an indefinite period. Neither policy contains an upper age limit for vehicles once they have been licensed, meaning vehicles can continue to operate as either hackney carriages or private hire vehicles indefinitely, providing they are able to pass an MOT and plate test prior to renewal of the licence.
- 4.13 One would imagine that there would be some basis upon which the predecessor councils set the age limits on new hackney carriages and private hire vehicles, but these numbers cannot now be justified. It seems inappropriate to continue with either of the age restrictions in the two policies, as the DfT best practice would suggest. To this end, with proposal 1 in Appendix A, the Licensing Manager is seeking to amend policy so that *“There are no restrictions on the age of vehicles which are to be considered for licensing as hackney carriages or private hire vehicles.”*
- 4.14 There were no objections to this proposal. Of the three that responded during the consultation, the first suggested more frequent tests for older vehicles or for those with greater annual mileage. The second responder agreed with the proposal. The third suggested emissions standards be used instead of age alone.

- 4.15 In terms of frequency of vehicle tests, the Licensing Manager is not currently proposing any changes. Vehicles operating in the Taunton Deane area would continue to provide proof of an MOT and plate test pass upon application for renewal of the licence. Those in the West Somerset area less than five years old would be the same, however those older than five years would need to continue having an additional plate test six months into the period of the licence. This is principally due to it not being practical to consider introducing an environmental policy or to harmonise the frequency of testing at this moment in time, but these can and will be considered by the new Somerset Council at the earliest opportunity.
- 4.16 Proposal 2: Make roof signs mandatory for taxis but prohibit their use on private hire vehicles completely.
- 4.17 Under section 64 of the Transport Act 1980, an offence is committed if a vehicle used for carrying passengers for hire or reward which is not a taxi e.g. a private hire vehicle, displays on or above the roof:
- a) *any sign which consists of or includes the word “taxi” or “cab”, whether in the singular or plural, or “hire”, or any word of similar meaning or appearance to any of those words, whether alone or as part of another word; or*
  - b) *any sign, notice, mark, illumination or other feature which may suggest that the vehicle is a taxi.*
- 4.18 Given that taxis come in all shapes, sizes and colours, there can be few, true defining features, other than a roof sign. This seems to be reinforced by the DfT’s best practice, which states that *“Members of the public can often confuse PHVs with taxis, failing to realise that PHVs are not available for immediate hire and that a PHV driver cannot be hailed. So it is important to distinguish between the two types of vehicle.” It goes on to say that “roof-mounted signs on PHVs are not seen as best practice” on the basis that “it can be argued that any roof-mounted sign, however unambiguous its words, is liable to create confusion with a taxi.”* The DfT draft best practice, consulted on but not published continued to emphasise this point: *“The intention is to try and make taxis the most noticeable and distinctive vehicle to members of the public who want to engage a taxi or PHV and to make it clear that only taxis can be hired without being prebooked. Increasing the differentiation between taxis and PHVs, so that taxis are easy to identify and PHVs are less visible would simplify safety messaging to the public that they should only get into a vehicle that looks like a taxi unless prebooked.”*
- 4.19 As part of the Taunton Deane area policy and standard conditions attached to private hire vehicle licences, private hire vehicles may use non-magnetic signs to a maximum stipulated size and approved by the Licensing Manager, but no “advertisement sign or light may be placed inside or outside the licensed vehicle that is not required by law” or by any other licence condition.
- 4.20 The West Somerset area policy states that private hire vehicles may display roof signs, *“provided that:*
- a) *the wording of the roof sign states only “Advanced Bookings Only” on the front of the sign with the telephone number of the operating company on the reverse; and*

- b) *the sign is white to the front and red to the rear, with any wording in black lettering; and*
- c) *the sign complies at all times with any necessary legislation including any vehicle lighting regulation requirements, if and when illuminated; and*
- d) *the sign has been approved in writing by the Council prior to its first display.”*

- 4.21 At the meeting of the Taxi and Private Hire Trade Forum on the 23<sup>rd</sup> of February 2022, representatives of the Taunton Taxi Association put forward a request that the Council consider changing the rules on roof signs, to make them mandatory for taxis and subject to certain specifications. A written copy of the request submitted is attached at **Appendix C**.
- 4.22 There were no outright objections to the proposal during the consultation. Of the three responses to the consultation, views on this specific proposal were mixed. Two out of the three licence holders supported the prohibiting roof signs on private hire vehicles. Likewise, two out of three supported making them mandatory on taxis. One licence holder supported the proposal in full.
- 4.23 There are different rules for roof signs on taxis and private hire vehicles across Somerset. Sedgemoor, for example, is currently the only authority where roof signs are mandatory on taxis and must also be green in colour. Roof signs on private hire vehicles are currently only prohibited in Mendip and South Somerset.
- 4.24 The purpose of this specific proposal is to create a single, clear and fit for purpose policy/rule on roof signs for the Somerset West and Taunton area, consistent with the legislation and best practice. It is proposed that roof signs are mandatory for taxis and prohibited on private hire vehicles. It is not proposed that there be any exemptions as part of the policy, as the Licensing Manager believes a hackney carriage should be easily identifiable and distinguishable from a private hire vehicle at all times.
- 4.25 It is possible that the Council could introduce specific requirements for roof signs on taxis, such as mandating colour and so forth, as suggested by the Taunton Taxi Association. Doing so would undoubtedly result in certain proprietors needing to replace existing roof signs, at cost. The Licensing Manager believes such requirements are not necessary and would be inconsiderate to vehicle proprietors at this point in time, given the new Somerset Council may seek to introduce particular roof sign requirements.

### Proposal 3: Change the frequency of driver medical checks

- 4.26 The Licensing Manager is seeking to harmonise the policy on when licensed drivers must supply the Council with the results of a medical check so that, principally, a medical check is required upon grant and renewal of the licence. This is an approach supported by the current published version of the DfT best practice: *“It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:*

- *they carry members of the general public who have expectations of a safe journey.*
- *they are on the road for longer hours than most car drivers, and*
- *they may have to assist disabled passengers and handle luggage.”*

- 4.27 The standard of medical fitness and criteria currently in use and common across district councils, is similar to the ‘Group 2’ standards applied by the DVLA to the licensing of lorry and bus drivers. This is supported as best practice by the DfT. DVLA ‘Group 2’ entitlement to drive lorries and buses are renewed every five years until the age of 65, when they are renewed annually but it is only upon grant and renewal from the age of 45 onwards that the driver must provide a medical check.
- 4.28 Under existing policy, Taunton Deane area drivers beneath the age of 45 years are only required to produce a medical check upon applying for the grant of a licence. By not checking the medical fitness of drivers beneath that age, the Licensing Manager believes the travelling public may be at unnecessary risk. Conversely, drivers for both areas are checked annually when they have attained a certain age; 60 or above for the Taunton Deane area, and 65 and above for the West Somerset area.
- 4.29 Under section 53 of the Local Government (Miscellaneous Provisions) Act 1976, driver licences remain in force for up to three years. Licences for shorter terms may be issued if the Council considers it *“appropriate in the circumstances of the case.”* The Council is required to satisfy itself that an individual is a ‘fit and proper person’ before it can grant a licence to that individual, whether that be upon application for the grant or renewal of a driver’s licence. It seems natural therefore that it is at these intervals that the applicant be required to provided a medical check, rather than part way through the period of a licence and/or less frequently. Furthermore, the ability to issue a licence for a period less than three years e.g. for one year, also means the Council has some discretion to exercise where an individual’s medical fitness may need to be checked more frequently. Checking drivers at shorter intervals based on their own individual circumstances would seem to be a fairer system than based simply on age.
- 4.30 Two licence holders objected to the proposal, suggesting a policy similar to DVLA ‘Group 2’ was more appropriate.
- 4.31 The DfT draft best practice, consulted on but not published, re-emphasised the use of the ‘Group 2’ medical: *“Licensing authorities should apply the Group 2 medical required for an entitlement to drive lorries (category C) and for buses (category D). For category C and D licences, the Group 2 licensing entitlements must be renewed every 5 years or at age 45, whichever is the earlier, until the age of 65 when they are renewed annually without an upper age limit. Shorter category C and D licences may be issued for medical reasons.”* As already explained, the Licensing Manager believes the frequency of medicals should not be based purely on age and they should be required for all drivers at an appropriate interval, being renewal.

Proposal 4: Allow vehicles with rear wheelchair loading facilities to be licensed as taxis and private vehicles in the West Somerset area, as they are already in the Taunton Deane area

- 4.32 Rear (and side) loading wheelchair accessible vehicles (WAVs) s have been licensed as

taxi in the Taunton Deane area for many years, with no reports of any issues/incidents. The West Somerset area policy does not give reasons for being prescriptive about side loading WAVs, and why rear loading is not considered to be suitable. Without reasons or evidence to support the restriction, the Licensing Manager feels it should be removed to ensure there is a common approach across the whole of Somerset West and Taunton.

## **5 Links to Corporate Strategy**

- 5.1 The council has a statutory duty to determine applications for hackney carriage and private hire driver, vehicle and private hire operator licences.

## **6 Finance / Resource Implications**

- 6.1 There are no finance or resource implications.

### **Unitary Council Financial Implications and S24 Direction Implications**

- 6.2 There are no financial or resource implications beyond vesting day for the new Somerset Council.

## **7 Legal Implications**

- 7.1 There are no legal implications.

## **8 Climate, Ecology and Sustainability Implications**

- 8.1 No direct carbon/environmental impacts arising from the recommendations.

## **9 Safeguarding and/or Community Safety Implications**

- 9.1 No safeguarding or community safety implications.

## **9.2 Equality and Diversity Implications**

- 9.3 The new policy recommended by the Licensing Manager in relation to licensed driver medicals ('Proposal 3'), would ensure all individuals are treated equally and fairly, regardless of age, in contrast to existing policy.

## **10 Social Value Implications**

- 10.1 The recommendation in this report does not involve the procurement of services, therefore there are no social value implications.

## **11 Partnership Implications**

- 11.1 The recommendation in this report does not involve joint working or funding, therefore there are no partnership implications.

## **12 Health and Wellbeing Implications**

- 12.1 Through effective regulation, the travelling public can have confidence in taxi private hire businesses, helping people to be independent and active.

### **13 Asset Management Implications**

13.1 There are no asset management implications.

### **14 Data Protection Implications**

14.1 No data protection implications were identified.

### **15 Consultation Implications**

15.1 As explained at paragraph 4.5, the Licensing Manager consulted licence holders on the proposals.

### **16 Scrutiny/Executive Comments / Recommendation(s)**

16.1 There are no scrutiny comments or recommendations as these matters are the responsibility of the Licensing Committee.

#### **Democratic Path:**

- **Scrutiny / Audit and Governance Committee – No**
- **Executive – No**
- **Full Council – No**
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**Reporting Frequency: Once only**

#### **List of Appendices (background papers to the report)**

Appendix A	Details of recommendation
Appendix B	Responses to consultation from licence holders
Appendix C	'Proposed Changes to Current Driver Vehicle and Operators Handbook' – submission from Taunton Taxi Association

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