

Surrey Heath Borough Council
Licensing Committee
Date of Meeting 15 February 2023

Review of Taxi and Private Hire Assessment of Previous Convictions

Strategic Director/Head of Service	Nick Steevens
Report Author:	Paula Barnshaw
Key Decision:	No
Wards Affected:	All

Summary and purpose

Surrey Heath Borough Council adopted the Hackney Carriage (Taxi) & Private Hire Licensing Policy (the Policy) on 02 August 2021.

Part of this policy is the relevance of convictions and other related information which is included as an annex to the Policy. This assessment of previous convictions was consistent with the Surrey wide relevance of convictions policy developed by officers from across the 11 Surrey boroughs and districts.

The Department for Transport (DfT) published Statutory Taxi and Private Hire Vehicle Standards (DfT Standards) July 2020, under s.177(1) of the Policing and Crime Act 2017.

A number of local Surrey authorities have since updated their guidelines independently and it is now thought appropriate to update the Surrey Heath Borough Council guidelines to reflect the latest Standards.

The new statutory guidance specifically requires all licensing authorities which exercise taxi and private hire licensing functions, to introduce new and/or strengthen existing policies to protect from harm, children and vulnerable individuals over 18 years of age. The Government expects all these DfT recommendations to be implemented unless there are compelling local reasons for not doing so.

The national framework aims to introduce greater consistency to help ensure that licensing authorities would use the same approach to determine whether an individual would be issued with a licence, and if a period of refusal applied, the same length of refusal would apply across licensing authorities. The DfT Standards have been incorporated into the new Taxi and Private Hire Assessment of Convictions shown at Annex A.

Recommendation

The Committee is asked to RESOLVE that

- (i) The Taxi and Private Hire Assessment of Previous Convictions Annex A be approved.

1. Background and Supporting Information

- 1.1 On 14 March 2018 this Committee resolved to adopt the Surrey wide relevance of convictions and other related information policy.
- 1.2 In determining taxi and private hire applications principal legislation is the Town and Police Clauses Act 1847, the Policing and Crime Act 2017, Local Government (Miscellaneous Provisions) Act 1976 (1976 Act) and the DfT's Statutory Taxi and Private Hire Vehicle Standards July 2020.
- 1.3 There are 5 types of licence; hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver; private hire operator.
- 1.4 There is no statutory criteria for vehicle licences, subsequently, the licensing authority has an absolute discretion.
- 1.5 Drivers and operators cannot be granted a licence unless the licensing authority is satisfied that they are a 'fit and proper person' to hold that licence. (1976 Act, s51 and s59 in respect of drivers and s55 in respect of operators.)
- 1.6 Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire driver's licence.
- 1.7 The licensing authority is not required to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected.
- 1.8 Applicants are entitled to a fair and impartial consideration of their application. In considering an individual's criminal record, the licensing authority shall consider each case on its merits.
- 1.9 In order to achieve national consistency, and to prevent 'licence shopping' where a driver is found to be unsuitable in one district, but is granted a licence in another, the DfT have recommended how local authorities should assess previous convictions, this can be found at Annex B.

2. Proposal and Alternative Options

- 2.1 It is proposed the Committee approve the Taxi and Private Hire Assessment of Previous Convictions Annex A, (the additions to the current policy are shown in red) which implements the DfT standards.

- 2.2 The Licensing Authority, must have a clear policy for the consideration of criminal records, and a consistent nationally adopted policy will mitigate the risk of successful legal challenge to decisions.
- 2.3 This will include, for example, which offences would prevent an applicant from being licensed regardless of the period elapsed in all but truly exceptional circumstances.
- 2.4 In the case of lesser offences, this policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.
- 2.5 The assessment periods shall be taken as the minimum starting point when considering if a licence should be granted or renewed in all cases.
- 2.6 The aim is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence.
- 2.7 The alternative option is to continue using the existing policy, reasons for not adopting the recommendations must be compelling as indicated by the DfT Statutory Taxi and Private Hire Vehicle Standards July 2020.

3. Contribution to the Council's Five Year Strategy

- 3.1 Ensuring Hackney Carriage, Private Hire Drivers and Private Hire Operators are fit and proper persons to hold a licence, contributes to the Councils Health and Quality of Life aim to ensure the borough is a safe place to live and work.

4. Resource Implications

- 4.1 None.

5. Section 151 Officer Comments:

- 5.1 There are no additional budgetary implications of this report.

6. Legal and Governance Issues

- 6.1 The Council is responsible for issuing taxi and private hire licences under 1976 Act and is expected to implement the DfT standards. Legal services have been consulted on the report.

7. Monitoring Officer Comments:

- 7.1 Approval of the Taxi and Private Hire Assessment of Previous Convictions is delegated to the Licensing Committee.

8. Other Considerations and Impacts

Environment and Climate Change

8.1 No direct impact.

Equalities and Human Rights

8.2 The updated Assessment of Previous Convictions ensure passenger safety is paramount in licensing decisions whilst ensuring applicants receive a fair and impartial consideration of their application.

Risk Management

8.3 There are no associated risks which have been identified with this item.

Community Engagement

8.4 None.

Annexes

Annex A – Draft Taxi and Private Hire Assessment of Convictions

Annex B – DfT Assessment of Previous Convictions

Background Papers

Department for Transport's Statutory Taxi and Private Hire Vehicle Standards July 2020