

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	2 March 2022
Subject:	Hackney Carriage (Taxi) and Private Hire Licensing Policy Mobile Homes and Caravan Sites Licensing Policy
Report of:	Licensing Operations and Development Team Leader
Corporate Lead:	Head of Community Services
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	Three

Executive Summary:

To consider an amendment to the current medical criteria for drivers, set out at page 13 of the Hackney Carriage (Taxi) and Private Hire Licensing Policy and to adopt the draft Hackney Carriage (Taxi) and Private Hire Licensing Policy, incorporating the Gloucestershire Common Standards which were agreed by the Licensing Committee at its meeting on 17 February 2022.

To adopt the Mobile Homes and Caravan Sites Licensing Policy agreed by the Licensing Committee at its meeting on 16 October 2021.

Recommendation:

- 1. That the amendment to the medical criteria, as set out in Paragraph 2.9 of the report which will be incorporated in the revised draft policy attached at Appendix A, be APPROVED.**
- 2. That the revised Hackney Carriage (Taxi) and Private Hire Licensing Policy attached at Appendix A, incorporating the Gloucestershire Common Standards which the Licensing Committee agreed at its meeting on 17 February 2022, be ADOPTED.**
- 3. That the revised Mobile Homes and Caravan Sites Licensing Policy attached at Appendix C, agreed by the Licensing Committee at its meeting on 16 October 2021, be ADOPTED.**

Reasons for Recommendation:

The current medical criteria are proving problematic for licence holders/new applicants to obtain medical appointments due to the current waiting lists/unavailability of appointments at GP surgeries. The amended criteria will enable licence holders/new applicants to obtain medicals easier without any risk to public safety.

The draft Hackney Carriage and Private Hire Licensing Policy has been updated with the Gloucestershire Common Standards and requires formal adoption. The current delegations are that all licensing policy documents should be formally approved by the Executive Committee.

Changes to legislation under the Caravan Sites Control of Development Act 1960 have been enacted relating to the requirement for site owners or managers to be assessed as a fit and proper person and the policy has been revised to include this requirement.

Resource Implications:

The taxi and private hire policy work will be delivered by current resources.

An additional 0.5FTE will be required to deliver the Mobile Homes and Caravan Sites policy work which is already in post.

Legal Implications:

The Statutory Taxi and Private Hire Standards (“Standards”) have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017. Section 177(4) of the Policing and Crime Act 2017 states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. Failure to adopt these Standards could leave the Council open to legal challenge.

There are data protection implications arising from the adoption of the Standards, particularly around information sharing between licensing authorities and third parties. It is recommended that the relevant privacy notices and associated documents are reviewed and updated as necessary to reflect the proposed changes.

Tewkesbury Borough Council has the responsibility to regulate mobile homes and caravan sites under the provisions of Caravan Sites and Control of Development Act 1960, Caravan Sites Act 1968, Mobile Homes Acts 1983 and 2013.

Risk Management Implications:

It is a statutory requirement to ensure that drivers are ‘fit and proper’ persons to carry out their role in transporting members of the public. One of the Council’s policy requirements for assessing the ‘fit and proper’ test is that the licence holder/applicant obtains a medical examination to prove their medical fitness. If the licence holder/applicant is unable to do this the Licensing Authority must suspend/not process the licence/application.

Revisions to the Mobile Homes and Caravan Sites legislations make it a statutory requirement for all operators of Mobile Home Sites to be assessed as ‘fit and proper’ persons and the revised policy outlines how this assessment will be carried out.

Performance Management Follow-up:

None required.

Environmental Implications:

There are no direct environmental implications.

1.0 INTRODUCTION/BACKGROUND

- 1.1** The Licensing Committee resolved to adopt the Gloucestershire Common Standards at its meeting on 14 October 2021.

- 1.2 The Common Standards have been incorporated into the existing Hackney Carriage and Private Hire Licensing policy and the document has been updated. A copy of the draft document is attached at Appendix A. This document was recommended to the Executive Committee for adoption at the meeting of the Licensing Committee held on 17 February 2022.
- 1.3 A copy of the existing policy is attached at Appendix B.
- 1.4 No changes have been made to any other parts of the policy.
- 1.5 As part of the driver licensing process, it is a requirement that an applicant for a Hackney Carriage or Private Hire Driver Licence is a 'fit and proper' person to hold such a licence.
- 1.6 In accordance with Section 57(1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may request such information it considers necessary to determine whether conditions should be attached to the licence.
- 1.7 The provisions of Section 57(2) of the Local Government (Miscellaneous Provisions) Act 1976 specifically allow a local authority to require a medical certificate certifying that the applicant for a Hackney Carriage or Private Hire Driver Licence is physically fit to undertake that role.
- 1.8 The Department for Transport (DfT) Best Practice Guidance states:
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.
It is common for licensing authorities to apply the "Group 2" medical standards – applied by DVLA to the licensing of lorry and bus drivers – to taxi and PHV drivers. This seems best practice.
- 1.9 Changes to legislation under the Caravan Sites Control of Development Act 1960 have been enacted relating to the requirement for site owners or managers to be assessed as a fit and proper person and the policy has been revised to include this requirement. Consultation has been completed and the policy was approved by the Licensing Committee at its meeting in October 2021. A copy of the draft policy is attached at Appendix C.

2.0 PROPOSED CHANGES TO CURRENT POLICY REQUIREMENTS

- 2.1 The current medical requirement within Tewkesbury Borough Council's Policy reads:
A medical examination carried out by a GP at the surgery the applicant is registered at is required before the grant of a driver's licence in order to assess an applicant's fitness to drive a licensed vehicle. A DVLA Group 2 standard of medical fitness for professional drivers will be required.
A request form for a medical examination, which must be presented to a GP at the applicant's registered GP surgery, is obtainable from the licensing team. The applicant will be responsible for paying the fee for the examination to their GP surgery. On completion of the examination, a confidential report will be submitted to the council. The

GP completing the medical examination will be required to certify that they have checked the applicant's personal medical records before completing the medical examination.

- 2.2** Due to the pandemic, it has been increasingly difficult for licence holders/applicants to be able to book a medical appointment at their GP surgery.
- 2.3** The DVLA permitted lorry and bus drivers a one-year grace period over 2020/21 to accommodate lorry and bus drivers so that they could accommodate the backlog of medical appointments whilst the Country was in the first lockdown and further COVID-19 measures followed. As the DVLA sets the standard for medicals (which the Council follows) this grace period was also given to existing drivers.
- 2.4** Since the grace period of time has ended, drivers/applicants have been allowed to use any medical practitioner to complete a Group 2 medical assessment providing that the practitioner has access to the patient's full medical record. This follows the same level of information as their GP would have access to.
- 2.5** There are many practices that offer medical assessments and only GMC (General Medical Council) registered practitioners are able to complete a Group 2 medical assessment.
- 2.6** This pragmatic approach has meant that no suspensions have been carried out due to the inability to obtain a medical report once the drivers has expired or a licence to be issued when applying to the Council without compromising public safety.
- 2.7** Full medical records can contain a huge amount of information dating back to birth and usually these records contain information which has no relevance to the medical assessment. This can impact on the practitioner's time and can also hinder a medical condition/medication being seen whilst trawling through the paperwork.
- 2.8** Increasingly, Licensing Authorities are now accepting a summary record. Based on clinical advice, all of the important medical information required to safely determine a candidate's fitness to drive is easy to review on a good, computerised summary of medical records. This summary is easier to translate and less time consuming for the practitioner. Cheltenham Borough Council has just adopted this approach and Stroud District Council is also going through the process to accept summary records.
- 2.9** It is proposed to change the policy requirement to:
- A medical examination carried out by a medical practitioner is required before the grant of a driver's licence in order to assess an applicant's fitness to drive a licensed vehicle. A DVLA Group 2 standard of medical fitness for professional drivers will be required.*
- A medical declaration form, along with the DVLA D4 medical examination form, must be presented to a suitably qualified medical practitioner. Both of these forms are available on the Council's website. The applicant will be responsible for paying the fee for the examination to the practitioner. On completion of the examination, **both** documents must be submitted to the Council. The medical practitioner completing the medical examination must have access to your medical history or a 'summary of medical records'.*
- Once a medical assessment has been carried out, the declaration form is only valid for three months.*
- 2.10** The Licensing Committee resolved to recommend the change to the medical criteria for adoption by the Executive Committee at its meeting held on 17 February 2022.

3.0 OTHER OPTIONS CONSIDERED

3.1 None.

4.0 CONSULTATION

4.1 Consultation on the draft Gloucestershire Common Standards were carried out with all licence holders, Gloucestershire Police and Gloucestershire County Council from April to June 2021. No comments were received.

4.2 Consultation on the draft was carried out between August and October 2021. No comments were received.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 The Council's Corporate Plan.

6.0 RELEVANT GOVERNMENT POLICIES

6.1 Department for Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010)

7.1 RESOURCE IMPLICATIONS (Human/Property)

7.1 None.

8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

8.1 None.

9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

9.1 None.

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 [Licensing Committee, Thursday, 14 October 2021](#)

10.2 [Agenda for Licensing on Thursday, 17 February 2022, 2:30 pm - Tewkesbury Borough Council](#)

Background Papers: [Department for Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance \(March 2010\)](#)

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Appendices: A – Tewkesbury Borough Council's Hackney Carriage and Private Hire Licensing Policy – draft.

B – Tewkesbury Borough Council's Hackney Carriage and Private Hire Licensing Policy – 2016 – 2019.

C – Tewkesbury Borough Council's Mobile Homes and Caravan Sites Licensing Policy 2021- 24 – draft.