

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 24

Brighton & Hove City Council

Subject: Hackney Carriage and Private Hire, Drivers, Vehicles and Operators Blue Book Review – 6th Edition

Date of Meeting: 04 March 2021

Report of: Interim Executive Director of Housing, Neighbourhoods, & Communities

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Wards Affected: All

1. PURPOSE OF REPORT AND POLICY CONTEXT:

To update, conditions advice and information for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators contained in the blue handbook. (The Blue Book) following Statutory Standards issued by the Department for Transport (Dft).

2. RECOMMENDATIONS:

2.1 That Committee approve the 6th Edition of the handbook (Appendix B)

3. CONTEXT/ BACKGROUND INFORMATION:

3.1 The Council licenses Hackney Carriage and Private Hire, Drivers, Vehicles, and Private Hire Operators. The authority for doing so is by adoption of the Local Government (Miscellaneous Provisions) Act 1976, Part II. (Section 45), The Town Police Clauses Act 1847, (Section 68) and the Public Health Act 1875, (Section 171).

The Acts require that the Council must be satisfied that the vehicle is: -

- suitable in type, size and design for use as a hackney carriage or private hire vehicle and it is in a suitable mechanical condition, safe and comfortable.

In the case of private hire vehicles, it is further required that

- they must not be of such design or appearance as to lead any person to believe that the vehicle is a hackney carriage.

Any vehicle used as a hackney carriage or for private hire must

- have in force a policy of insurance in relation to the use of that vehicle.

In addition to the statutory requirements a Council may attach to the grant of a licence such conditions, as the Council considers reasonably necessary. However, the 1985 Transport Act specifically states that the Council shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the Council. It should be noted that in the case of hackney carriages the numbers may be limited only if the Council can show there to be no significant unmet demand for this type of vehicle licence. In respect of the issue of driver's licences the Local Government (Miscellaneous Provisions) Act of 1976 requires the Council to be satisfied that each applicant is a fit and proper person to hold such a licence prior to its grant. There is no authority to attach any condition to a hackney carriage driver's licence as they are controlled by means of byelaws, but conditions may be applied to private hire driver licences.

- 3.2 The handbook was designed to combine many bye laws, conditions, advice and information for hackney carriage and private hire drivers, vehicles and operators previously in various and separate forms and was first approved by committee in February 2007.
- 3.3 All changes previously agreed by Members since November 2018 are now included in the new version of the Blue Book. The 6th version Blue Book has been updated having regard to the new Statutory Standards issued by the Government in July 2020. Which states 'When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the report by Dame Louise Casey CB of February 2015 on safeguarding failings.
- 3.4 A summary of the main changes can be shown in Appendix A and version of the 6th Edition showing all the changes can be found at Appendix B
- 3.5 Currently all Hackney Carriage & Private Hire vehicles must always have CCTV operational when working and/or carrying passengers for hire and reward but can be optional at other times. The system must be of a sufficient standard to clearly record all persons in the vehicle with the objective of preventing disorder or crime, enhancing public safety, the protecting health & morals, and the protecting the rights & freedoms of others and to confirm or rebut complaints made against the driver or as evidence in motor insurance matters.

- 3.6 The Statutory Standards issued by the DFT states: It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.
- 3.7 In order to comply with ICO recommendations we are proposing the option of a switch located in the boot/rear of the vehicle to enable the CCTV to be disabled while undertaking personal journeys. A visual indication must be fitted and maintained in working order in the cabin in clear view of the driver to alert the driver that the CCTV is switched off should a cut out system be fitted to the vehicle. This is similar to the CCTV requirements for Adur & Worthing Councils and local suppliers suggest the extra cost will be in the region of £30-£50.
- 3.8 The Council recognises that currently the trade is badly affected by Covid-19 so the requirements regarding a switch will not come into force until the 1st April 2022 for all new/replacement vehicles, at renewal or if a CCTV system is replaced.
- 3.9 The proposals were discussed at the January taxi forum and the trade were then formally consulted between 22 January 2021 and 14 February 2021. The responses to the consultation can be found at Appendix C. 23 responses have been received the majority of which are concerning CCTV and the right to privacy. There was 1 response in support from a member of the public. Officers have listened to the concerns raised within the consultation and amended the proposed conditions to allow a visual indicator within the cabin and removed the requirement that the CCTV system defaults to on when the ignition is turned on and off. The Blue Book makes it clear that the CCTV must be operating at all times in the vehicle when trading and carrying passengers for hire and reward. Officers believe that the inclusion of a switch is in accordance with the ICO's recommendations and protects a driver's privacy should they wish to have a switch installed when the vehicle is being used for personal use.
- 3.10 The new Statutory Standards states Licensing authorities should review their licensing policies every five years but should also consider interim reviews should there be significant issues arising in their area, and their performance annually. The handbook should therefore be reviewed in 2026.
- 3.11 It is intended that the handbook will be all hackney carriage & private hire, drivers, proprietors & operators and the public on the Councils website. Any amendments,

changes or additions approved and issued by the council to this handbook will be made to the online version and treated as if they are part of the handbook

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

None

5. COMMUNITY ENGAGEMENT & CONSULTATION

Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers. Local disability groups, Home to School Transport, The Councils LADO, Front door for Families, Local Bus Companies, Sussex Police, CCTV Installers and Brighton Bid have been included in the Consultation.

6. CONCLUSION

That members consider the recommendations.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications

The costs associated with revising the Blue Book have been met from within existing revenue budgets.

Finance Officer Consulted: Michael Bentley Date: 20th January 2021

7.2 Legal Implications

There are no direct legal implications other than those set out in the body of the report.
Lawyer: Date: 17th February 2021

7.3 Equalities Implications:

EIA was considered by Government in formulating the statutory guidance. Recommendations are designed to promote equality of opportunity, eliminate unlawful discrimination, promote participation in public life and meet the needs of disabled people.

Improving access to taxis/Private Hire Vehicles (PHVs) is a priority action in the council's Equality Scheme. Improving access to services by public transport is included in the Local Area Agreement.

7.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

Appendices

Appendix A – summary of changes

Appendix B – 6th Edition BB with tracked changes

Appendix C – CCTV consultation comments

