

# Regulatory Committee

Wednesday 17 March 2021 at 7.30pm

**This meeting will be held remotely via MS Teams with audio access to the public via registered freephone dial-in only**

## Members of the Committee

Councillors D Cotty (Chairman), T Burton, D Clarke, J Furey and M Harnden.

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

## A G E N D A

### Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C Pinnock, Democratic Services, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: [clare.pinnock@runnymede.gov.uk](mailto:clare.pinnock@runnymede.gov.uk))**.
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on [www.runnymede.gov.uk](http://www.runnymede.gov.uk).
- 4) **Filming, Audio-Recording, Photography, Tweeting and Blogging of Meetings**

Members of the public are only permitted to hear the debate on the items listed in Part I of this Agenda, which contains matters in respect of which reports have been made available for public inspection. You will not be able to hear the debate for the items in Part II of this Agenda, which contains matters involving Exempt or Confidential information in respect of which reports have not been made available for public inspection. If you wish to hear the debate for the Part I items on this Agenda by audio via MS Teams you must register by 10.00 am on the day of the meeting

with the Democratic Services Team by emailing your name and contact number to be used to dial-in to [democratic.services@runnymede.gov.uk](mailto:democratic.services@runnymede.gov.uk)

#### **5) Audio-Recording of Meeting**

As this meeting will be held remotely via MS Teams, you may only record the audio of this meeting. The Council will not be recording any remote meetings.

## **LIST OF MATTERS FOR CONSIDERATION**

### **PART I**

#### **Matters in respect of which reports have been made available for public inspection**

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### **PART II**

#### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

- a) Exempt Information  
(No reports to be considered under this heading)
- b) Confidential Information  
(No reports to be considered under this heading)

**1. Notification of changes to Committee Membership**

**2. Minutes**

To confirm and sign as a correct record, the Minutes of the meeting held on 10 November 2020 which were circulated by email to all Members in February 2021.

It is a requirement of the Council's Constitution that the minutes of the Committee are signed at the next available meeting. However, as the meeting is being held remotely, the Chairman will ask the Members of the Committee if they approve the Minutes which will then be signed when this is physically possible.

**3. Apologies for Absence**

**4. Declarations of Interest**

If Members have an interest in an item, please record the interest on the form circulated with this Agenda and email it to the Democratic Services Officer by 5pm on the day of the meeting.

Members are advised to contact the Council's Legal Section prior to the meeting if they wish to seek advice on a potential interest.

Members are reminded that a non pecuniary interest includes their appointment by the Council as the Council's representative to an outside body and that this should be declared. Membership of an outside body in their private capacity as a director, trustee, committee member or in another position of influence thereon should be regarded as a disclosable pecuniary interest, as should an appointment to an outside body by the Council as a trustee.

Members who have previously declared interests, which are recorded in the Minutes to be considered at this meeting, need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have interest becomes the subject of debate, in which event the Member must leave the room if the interest is a disclosable pecuniary interest or if the interest could reasonably be regarded as so significant to prejudice the Member's judgement of the public interest.

**5. Statutory Guidance in relation to Taxi and Private Hire Vehicle Standards (Environmental Services, Robert Smith)**

**Synopsis of report:**

**To inform Members of the matters to be consulted upon regarding Statutory Taxi and Private Hire Vehicle Standards and Runnymede's policy on tinted windows.**

**Recommendation that:**

- i) a consultation exercise on the Statutory Taxi and Private Hire Vehicle Standards be approved; and**
- ii) a consultation exercise on Runnymede's policy on tinted windows be approved.**

## 1. **Context of report**

- 1.1 On 21 July 2020, the Department for Transport (DFT), issued Statutory Taxi & Private Hire Vehicle Standards, referred to in this report as the 'Guidance'.
- 1.2 The standards in this document replace relevant sections of the Best Practice Guidance issued by the DFT in 2010. Where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance, the standards in this document take precedence.
- 1.3 Under the Policing and Crime Act 2017 the Secretary of State for Transport is enabled to issue statutory guidance on the licensing of taxi and private hire vehicles. Licensing aims to protect children and vulnerable individuals who are over 18 from harm when using these services.
- 1.4 The Guidance is the result of extensive consultation with the police, the trade, the Institute of Licensing and others and sets out the approach that Licensing Authorities must adopt when carrying out their functions.
- 1.5 This authority has already previously implemented a number of the recommendations of its own volition, but the guidance provides the opportunity to consider further changes.
- 1.6 The introduction to the Standards states that the Department for Transport "expects these recommendations to be implemented unless there is a compelling local reason not to."
- 1.7 Clearly the Government's desire is to see consistent standards applied by taxi and private hire licensing authorities across the country and states within the guidance- 'In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these'.
- 1.8 Officers believe that the Council's current hackney carriage and private hire licensing policies now need to be reviewed with a view to the consideration of implementing any changes required in light of the recommendations set out in the Standards.

## 2. **Report**

- 2.1 In many areas Runnymede has already met the recommendations of the 'Guidance' and in other areas there is room for change. These were fully detailed in the information report circulated to Members in December 2020.
- 2.2 Following the abovementioned report, Officers are now considering consultation on changes to the Council's policy. The matters to be consulted on are set out below.

### Licensing policies 3.6

- 2.3 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing.
- 2.4 Runnymede's current position is that a full and comprehensive policy was introduced in 2016. This meets the standard required and is currently reviewed every 3 years. However, the Guidance recommends reviewing the policy every 5 years. Therefore, Officers recommend that the following is included in the consultation:

**1. Consult on amending policy to change the requirement for reviewing the policy to every 5 years.**

Licensee self-reporting

- 2.5 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- 2.6 Runnymede's current position is that the time allowed for licence holders to inform the issuing authority is within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the Council within 3 working days of their arrest for any matter (whether subsequently charged or not).

**2. Consult on amending policy to change the requirement to notify to 48 hours.**

Criminality checks for drivers

- 2.7 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.
- 2.8 Runnymede's current position is that whilst our 'policy' covers criminality checks comprehensively, it does not specifically mention that licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list. Therefore, Officers recommend the following:

**3. Consult on amending policy to change the requirement so that in the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.**

Language proficiency

- 2.9 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.
- 2.10 Runnymede's current position is that we do not have a specific language test in place. The knowledge test itself requires language skills, without this applicants would be unable to complete the test successfully. If an applicant can complete the knowledge test, Officers believe they are capable in reading and writing English. The oral test is another matter and if Members considered this to be necessary, perhaps in conjunction with a specific English language skills test, this would be the subject of a further report and consultation. We have not received complaints, nor a great call for the introduction of a specific language test.

**4. Consult on amending policy to include a requirement for a language test.**

Criminality checks for vehicle proprietors

- 2.11 Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.

- 2.12 Runnymede's current position is that we do not currently demand a DBS from persons who are sole vehicle proprietors, i.e. not a driver or an operator. All our vehicles are owned by the driver or operator. However, to meet the Guidance a small change to policy would be required.

**5. Consult on amending policy to change the requirements for an annual basic DBS check from vehicle proprietors.**

In-vehicle visual and audio recording – CCTV

- 2.13 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

- 2.14 Runnymede's current position is that CCTV is not mandated. Some of the issues regarding CCTV range from cost (who pays for it), proportionality, necessity and data control. As per the Guidance, a consultation would have to take place to assess if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users.

**6. Consult on amending policy to make it a condition of vehicle licensing that all vehicles are fitted with CCTV or alternatively on allowing CCTV should a proprietor wish to fit such a system.**

Criminality checks for private hire vehicle operators

- 2.15 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.

- 2.16 Runnymede's current position is stated at section 7.23 of our policy:

"As recommended best practice by the DfT, it is the policy of the licensing authority that all applicants (and, where appropriate, all directors or partners of any business applicant) must provide a basic criminal records disclosure at the point of each new application and thereafter, every 3 years". Therefore, this would have to be amended to meet the Guidance.

**7. Consult on amending policy to make it a condition of licensing that all operators have an annual basic DBS check.**

Booking and dispatch staff

- 2.17 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff who have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Licensing authorities should, as a condition of granting an operator licence, require a register is kept of all staff that will take bookings or dispatch vehicles.

- 2.18 This is not currently a requirement, therefore a change in policy would be required to meet the 'Guidance'.

**8. Consult on amending policy to make it a condition of licensing the operators are required to keep a register of all staff taking bookings or dispatching vehicles.**

### Use of passenger carrying vehicles (PCV) licensed drivers

- 2.19 The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.
- 2.20 Currently, this restriction is not in our policy. Therefore, a change in policy would be required to meet the 'Guidance'. Officers are not aware of this being applied by any operators in Runnymede.

**9. Consult on amending policy to make it a condition of licensing that the use of a driver who holds a PCV licence and the use of a public service vehicle (PSV), such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.**

### Tinted Windows

- 2.21 Although not mentioned in the Statutory Guidance, the issues in respect of fitting tinted windows to vehicles has caused considerable discussion amongst the trade since it was introduced in March 2017. There have been two consultations to date on this subject. These were prior to its introduction, and again in August 2018, when the matter was revisited by this Committee in September 2020. Minor adjustments were made to allow tinted windows on larger wheelchair accessible vehicles.
- 2.22 Officers are frequently asked about the possibility of relaxing this condition by drivers. Their view is that finding suitable vehicles which meet our policy is increasingly difficult, as many of the older second hand vehicles which would have met the policy are now unavailable, and there is a lack of choice and availability with newer vehicles whether new or second-hand.
- 2.23 Many drivers whilst wanting to upgrade their vehicles and buy a newer model are now delaying this decision and using their existing vehicles for longer. This is costly for drivers with older vehicles with high mileage. These vehicles require more maintenance to keep them roadworthy, which is particularly expensive when it comes to replacing major components like gearboxes for instance.
- 2.24 In September 2018, this Committee agreed that the policy would be reviewed either at the end of the 3 year life of the current policy or when further DfT Taxi and Private Hire Licensing - Best Practice Guidance is published, whichever is the soonest.
- 2.25 No responses concerning tinted windows were received during the consultation prior to renewal of our policy in March 2020. However, Officers are aware of the trade's feelings on this matter.
- 2.26 The Statutory Guidance does not cover tinted windows, and to date there is no sign of any revisions to the DfT Taxi and Private Hire Licensing - Best Practice Guidance.

**10. This is an opportune moment to consult again on our tinted windows policy.**

### **3. Policy framework implications**

- 3.1 The statutory guidance states that Hackney Carriage and Private Hire licensing policies and procedures should be reviewed to reflect the measures contained in the new statutory guidance.



#### 4. **Resource implications**

- 4.1 The Senior Licensing Officer will arrange the consultation as soon as possible. This will be conducted within the current Covid restrictions, and the results will be submitted to the next scheduled meeting of this Committee in June 2021.

#### 5. **Legal implications**

- 5.1 The Statutory Taxi and Private Hire Standards have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017.
- 5.2 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 have regard to the guidance issued under section 177 would leave the Council in breach of a legal duty to do so.
- 5.3 Although it remains the case that the Council must reach its own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the Standards without sufficient justification could be detrimental to the authority's defence.

#### 6. **Equality implications**

- 6.1 Following consultation, a further report will be brought before this Committee, and any equality implications will be addressed within that report, including an Equalities Screening Assessment if deemed necessary.

#### 7. **Conclusions**

- 7.1 The results of the consultation on Statutory Taxi and Private Hire Standards will be brought back to this Committee for discussion and consideration of any changes thought necessary.

#### **(To resolve)**

#### **Background papers**

Runnymede Hackney Carriage and Private Hire Licensing Policy.

<https://www.runnymede.gov.uk/article/14525/Apply-for-a-Hackney-Carriage-or-a-private-hire-driver-s-licence-as-a-new-applicant>

Section 177 of the Policing and Crime Act 2017.

<https://www.legislation.gov.uk/ukpga/2017/3/section/177>

Department of Transport Best Practice Guidance.

<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>

Information report as circulated to Members in January 2021 on Statutory Taxi and Private Hire Vehicle Standards.

<X:\Wpcmin\All Committee Reports 2021\Regulatory\Report on statutory-taxi-and-private-hire-vehicle-standards-.docx>

Statutory Taxi and Private Hire Vehicle Standards.

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehiclestandards>

**6. Exclusion of Press and Public**

If Members are minded to consider any of the foregoing items in private, it is the

**OFFICERS' RECOMMENDATION that -**

**the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve disclosure of exempt information of the description specified in the relevant paragraphs of Part 1 of Schedule 12A of the Act.**

**(To Resolve)**

**PART II**

**Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

a) Exempt Information

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)