

**Wards Affected:**

All Wards

**ITEM 14****CABINET****5 MARCH 2019****ADOPTION OF A REVISED HACKNEY CARRIAGE AND PRIVATE HIRE (TAXI) POLICY**

Responsible Cabinet Member: Councillor Legg – Cabinet Member for Customer Services

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**Executive Summary**

Cabinet to approve a revised Taxi Licensing Policy to enable better clarity as to the functions of the Council.

The Council's guidelines on Taxi Licensing have now been split into two documents: 1) Taxi Licensing Policy (which falls within the jurisdiction of Cabinet) and 2) Taxi Licensing Conditions and Procedures (which falls within the jurisdiction of the Regulatory Committee).

**1. Recommendation(s)**

1.1 That the revised Hackney Carriage and Private Hire (Taxi) Policy be approved.<sup>1</sup>

**2. Issues**

2.1 Milton Keynes Council (MKC) grants "Taxi" licences under the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ("the regulations") set out how local authorities discharge their functions.

2.2 The Local Government regulations make it clear that the granting of licences, the imposition of conditions and the determination of any other terms to which such approval or licence is subject, cannot be carried out by the Executive. As a result MKC has delegated this authority to the Regulatory Committee and Officers. A new document referred to as 'Taxi Licensing Conditions and Procedures' was approved by the Regulatory Committee on 12 December 2018 to reflect this. Anything that falls outside of this document is considered Policy and requires the approval by the Executive Cabinet of MKC.

2.3 The split between Cabinet and Regulatory Committee functions is not easy to reconcile in respect to the practical aspects of Taxi Licensing. Council Policy can often result in the consideration of "terms of approval" and the imposition

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<sup>1</sup> The Regulatory Committee recommended that Cabinet approve the revised policy (Annex A) on 12 December 2018.

of conditions. A decision incorrectly made would be ultra-vires<sup>2</sup> and may be challenged.

- 2.4 Elements of policy, procedure, conditions and guidance are interwoven within the current Policy and its appendices. Due to this the decision making process to adopt the Policy was more complex than necessary. This is not necessarily good for making efficient decisions when public safety or the requirements of the trade may be at stake.
- 2.5 As a result of this legal situation the Council's Taxi Licensing Policy has been revised to reflect this. An updated policy is at the Annex and is the sole responsibility of Cabinet to approve. However, as previously stated, the Cabinet cannot grant licences and/or set conditions so the policy must therefore express global aims and desires to be achieved.

#### Annex - Policy

- 2.6 There is no material change in Council Policy except for one matter stated below (4.0). Some of the previous policy has been reworded in parts to better express policy aims so Councillors, licence holders and council officers are clear about what the standards and requirements are.

### 3. **Suitability of Licensed Individuals**

- 3.1 The Council's previous Policy set out how it assessed the suitability of individuals with convictions etc. As this is clearly Policy it has been included in Appendix A - Section 16. The ordering of offences has been revised to start with the more concerning. The description of the offence of "drink driving" has been revised to also include "driving whilst under the influence of drugs".

### 4. **Change to Policy - Foreign Criminal Record Certificates**

- 4.1 The Policy has one proposed material change. Currently an applicant must produce a foreign criminal record if they have lived in another Country in the last 20 years. It is proposed to reduce this in line with Home Office requirements for obtaining work permits and the Government recruitment standards for Police Officers and Nurses etc.<sup>3</sup>
- 4.2 The Council adopted the 20 year requirement in 2015 and all drivers currently licensed have provided these checks. Over the last 3 years no evidence has been obtained that this level of check increases public safety.<sup>4</sup>
- 4.3 To be licensed to work as a Taxi driver an individual must have the right to work in the UK as a self-employed person and this right is checked by the Council. An individual must either have a) a British Passport; b) Resident's Permit or c) be a citizen of a Country with an automatic right to work in the UK (i.e. EU citizen).
- 4.4 Checks of individuals are carried out by Government Agencies upon entering the UK. The Home Office consider convictions as either spent after 10 years

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<sup>2</sup> As the Regulatory Committee approved all parts of the Policy and recommended approval to Cabinet (who adopted) there is no risk of any previous decision being ultra vires.

<sup>3</sup> Taxi Licensing undertook a consultation with the Taxi and Private Hire trade on 2 February 2018. The results of the consultation were that Private Hire Operators Skyline, Speedline and Bounds supported this amendment whilst the MK Taxi Association (Hackney Carriages) and Airport Express MK did not support this amendment.

<sup>4</sup> It is cited as one of the reasons drivers obtain licences elsewhere, and since other Councils only check for 5 or 3 years, public safety is arguably increased.

or never spent if an individual has served a prison sentence of 30 months (or more). Those with serious (i.e. never spent) convictions are not able to enter the UK.

4.5 For this reason the Home Office require overseas criminal record checks to only go back as far as 10 years. The longest rehabilitation period (i.e. the period of a time someone must be conviction free to be considered suitable for a licence) given in the Council Policy is 10 years.

4.6 Checking the “foreign” criminal record of anyone who has lived in the UK for more than 10 years is only relevant to the Council Policy in respect to serious sexual and violent offences where the Council will not grant a licence. As individuals will not be permitted to enter the UK this check is not necessary.

4.7 Any Policy or Condition must be reasonably necessary. Council officers consider that the only reason this requirement can be viewed as necessary is if a relevant government agency makes a mistake. A Policy based on the potential failing of another organisation cannot be justified as reasonable and would be open to challenge.

## 5. Options

5.1 Recommended: That the revised Policy (Appendix A) is approved by Cabinet.

5.2 Not Recommended: That the Cabinet do not approve the revised Policy. This is not recommended as the current Policy document is no longer suitable to aid the Council’s decision making process.

## 6. Implications

### 6.1 Policy

The Taxi Licensing Policy must be approved by Cabinet. This requirement ensures that all decision making in regard to taxi licensing is done lawfully.

### 6.2 Resource and Risk

N	Capital	Y	Revenue	N	Accommodation
N	IT	N	Medium Term Plan	N	Asset Management

### 6.3 Carbon and Energy Management

None.

### 6.4 Legal

The powers to grant licences to hackney carriage, private hire vehicles and their drivers and operators is permitted by the Town and Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976.

### 6.5 Other Implications

Y	Equalities/Diversity	N	Sustainability	Y	Human Rights
N	E-Government	Y	Stakeholders	Y	Crime and Disorder

Background Papers: Taxi Licensing Conditions and Procedures (2018)  
(available on request)

**Annex:** Statement of Hackney Carriage and Private Hire (Taxi)  
Licensing Policy