

## REGULATORY SERVICES COMMITTEE – 20 JUNE 2018

### PART I - DELEGATED

#### 6. CONDITIONS FOR PRIVATE HIRE DRIVER, VEHICLES & OPERATORS (DCES)

##### 1. Summary

- 1.1. Three Rivers District Council (TRDC) are responsible for licensing Private Hire drivers, vehicles and operators under the Local Government (Miscellaneous Provisions) Act 1976. The Council is also responsible for licensing Hackney Carriages and their drivers under the Town Police Clauses Act 1847.
- 1.2. Under the Local Government (Miscellaneous Provisions) Act 1976 the Council may attach conditions to a licence. Provided that there is consultation and the matter is properly considered it is permissible for the local authority to decide as a matter of policy what general conditions are to be attached to a licence. However the local authority still has a discretion to add additional conditions to a licence in individual cases.
- 1.3. The general conditions were last reviewed in 2005, the previous conditions have been in place for a number of years and this report looks to review and replace the conditions as part of the Regulatory Service Committee's work programme.
- 1.4. At the Regulatory Services Committee of 21 March 2018 Members resolved to consult upon the draft conditions for Private Hire Driver, Vehicles and Operators. As such the proposal has been out to consultation. This report details the consultation responses and seeks to authorise an amendment to the conditions.
- 1.5. A consultation with stakeholders took place asking for any comments on the draft conditions.
- 1.6. A total of 5 responses were received from stakeholders including from members of the public and the trade. The responses are summarised at paragraph 2.9 onwards.

##### 2. Details

- 2.1. In relation to a Private Hire Driver's Licence S.51(2) of the Local Government (Miscellaneous Provisions) Act 1976 states "*A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary*".
- 2.2. In relation to a Private Hire Vehicle Licence S.48(2) of the Local Government (Miscellaneous Provisions) Act 1976 states "*A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates*".

- 2.3. In relation to a Private Hire Operator Licence S.55(3) of the Local Government (Miscellaneous Provisions) Act 1976 states “A *district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary*”.
- 2.4. When specifically looking at Private Hire Driver conditions the draft conditions contained at Appendix A look to build on the current conditions (attached at Appendix E). A number of items that have been added include informing the Council of any arrest or prosecution within a timescale (within 5 working days). These additional conditions are all thought to be reasonably necessary not only to ensure public safety but also that the customer receives an excellent standard of service.
- 2.5. With regards to the Private Hire Vehicle conditions these again look to build on current conditions contained at Appendix F. The additional conditions attached at Appendix B look to ensure that the vehicle is designed for the carriage of passengers, to reduce any emissions, that the vehicle also carries a first aid kit and where appropriate by manufactures guidelines carries a replacement bulb kit. These are again thought to be reasonably necessary to ensure public safety.
- 2.6. In relation to the Private Hire Operator conditions the proposed conditions (Appendix C) look to strengthen the current conditions (attached at Appendix G) by ensuring the operator can show diligence and ensuring each driver and vehicle is licenced, insured and safe. These additional conditions are all thought to be reasonably necessary not only to ensure public safety but also that the customer receives an excellent standard of service.
- 2.7. The Department of Transport Best Practice Guidance states that the aim of the local authority licensing of the taxi and PHV trades is to protect the public. The revised conditions incorporate the current conditions but look to establish a more robust approach to ensure drivers, customers and the general public have a safer and cleaner environment and an excellent standard of customer care.
- 2.8. At present there is no national standard for conditions. The proposed conditions are however in line with current best practice.
- 2.9. **Consultation Process**
- 2.10. A consultation process to consider the amended conditions has taken place and expired on 20 May 2018. A total of 5 responses were received. These responses came from members of the public and the trade.
- 2.11. The full responses to the consultation are available at Appendix D attached to this report.
- 2.12. In response to the comments received from the consultation the conditions have been amended further and the changes made have been set out below:
- 2.13. Item 1.5 of the Private Hire Vehicle conditions (Appendix B) has been amended to read:

*“When a vehicle is licensed for private hire purposes it must be driven only by the holder of a current Three Rivers District Council Private Hire Licence, clearly displayed on his/her person when driving such vehicle. No other person is permitted to drive the licensed vehicle at any time.”*

- 2.14. Item 4.3 of the Private Hire Vehicle conditions has also been altered to include M2<sup>1</sup> and N1<sup>2</sup> vehicles where a Voluntary Individual Vehicle Approval (VIVA), a Certificate of Initial Fitness (CIF) or a Certificate of Conformity (CoC) is given.
- 2.15. In respect of the other comments received, an overview has been provided below which summaries the responses from the consultation process.
- 2.16. A comment was received expressing concern that a tyre tread of 3mm is quite extreme and recommended that this is reduced to 2mm. In response, the Royal Society of the Prevention of Accidents has carried out extensive research on this matter and it is thought that the 3mm tyre depth is reasonable and is valid.
- 2.17. There were also comments about Three Rivers driver vehicles solely working in other areas. The conditions relating to cross border hiring’s have been put in place and is in line with the Deregulation Act 2015.
- 2.18. One Operator however has submitted comments objecting to all amended conditions. When asked for clarification over which specific conditions the Operator objects to, the response stated that they objected to everything new and that the current conditions for Private Hire and Operators are fine.
- 2.19. The said Operator also stated that 95% of his drivers have not been notified of the consultation. Having checked the records it is noted that not every person in the list provided holds a Private Hire Licence with Three Rivers District Council, and of all those who do, letters were sent out to the addresses registered with the Council. Notification of the consultation was also provided on the Three Rivers website.
- 2.20. Lastly, comments were also received in respect of the display of license plates however this is not a new condition and has been in place since 2005. A vehicle is licenced 24 hours a day, 7 days a week and therefore must display the licence plate at all times, unless an exemption has been granted.
- 2.21. If agreed, the amended conditions will come into effect immediately and will only affect new applicants or those renewing an existing licence. All existing drivers/operators will remain on the general conditions adopted in 2015 until they are required to renew following the expiry of their licence.

### 3. **Options/Reasons for Recommendation**

- 3.1. Following discussion at Committee there are 4 options:

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<sup>1</sup> M1 vehicle is defined as vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver’s seat

<sup>2</sup> N1 vehicle is defined as vehicles designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes

Option 1 – Members of the Committee adopt the conditions as amended following the consultation.

Option 2 – Members of the Committee adopt the conditions as amended following the consultation, and as amended at the Committee Meeting.

Option 3 – Members of the Committee adopt only certain conditions following the consultation.

Option 4 – Members of the Committee decide not to adopt any of the proposed conditions.

#### **4. Policy/Budget Reference and Implications**

- 4.1. The recommendations in this report are within the Council’s agreed budgets but require a modification to the conditions relating to Private Hire, Vehicles and Operators licences (Licensing Policy).

#### **5. Financial Implications**

- 5.1. Conditions, whether one of the general conditions contained in a policy or an individual condition attached to a particular licence are open to appeal in the magistrates’ court. There may be financial implications to defend these matters.
- 5.2. The addition of more conditions may unfortunately discourage applicants from applying for a licence even though this is not the intention of reviewing them. Members should be aware that this may lead to a reduction of income. This will be monitored.

#### **6. Legal Implications**

- 6.1 The Local Government (Miscellaneous Provisions) Act 1976 allows the Council to add conditions to the licences they grant and creating general conditions in a policy is permissible.
- 6.2 Conditions are open to appeal in the magistrates’ court. There may be legal implications to defend these matters.

#### **7. Equal Opportunities Implications**

##### **7.1. Relevance Test**

Has a relevance test been completed for Equality Impact? <b><i>There is no change to the Equality Impact since the original conditions were imposed</i></b>	No
Did the relevance test conclude a full impact assessment was required?	No

## **7.2 Impact Assessment**

There is no detrimental impact likely towards any protected group from amending the conditions of private hire drivers, vehicles and / or private hire operator licences. Any consultation with the public will seek to collect relevant demographic data in order to assess the different views of relevant protected groups if any.

## **8. Staffing Implications**

- 8.1 There are no staffing implications as this would replace the current licence conditions.

## **9. Environmental Implications**

- 9.1 None specific

## **10. Community Safety Implications**

- 10.1 By a licence holder informing us of any arrest or conviction etc. within a certain timeframe the proposed conditions will help to ensure we protect the health and wellbeing of the most vulnerable people in our community.

## **11. Public Health implications**

- 11.1 With regards to Private Hire Vehicle conditions the proposed conditions include a proposal that would reduce vehicle emissions and therefore would be better for public health.

## **12. Customer Services Centre Implications**

- 12.1 If approved, the changes to the conditions may increase the number of calls from applicants and residents. However, the amended conditions, if agreed, will be clearly signposted on the TRDC website and attached to all Application Forms for the relevant licence.

## **13. Communications and Website Implications**

- 13.1 If the recommendation is approved, the amended conditions will be displayed on the TRDC website and can be published via TRDC social media platforms if required. There are no other communications and website implications.

## **14. Risk Management and Health & Safety Implications**

- 14.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

- 14.2 The following table gives the risks if the recommendation(s) are agreed, together with a scored assessment of their impact and likelihood:

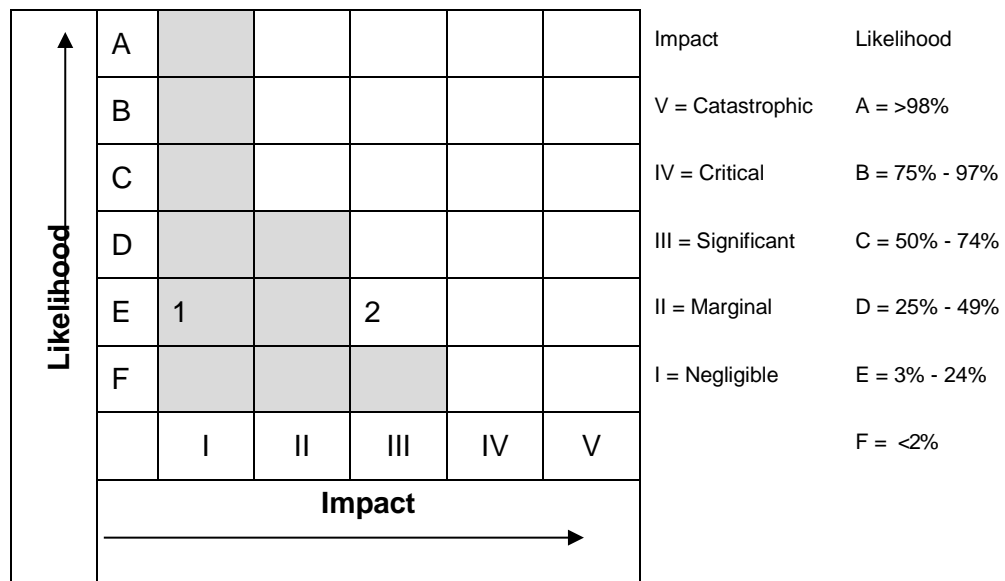
Description of Risk		Impact	Likelihood
1	Risk of appeal to Magistrates Court	I	E

14.3 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

Description of Risk		Impact	Likelihood
2	Weak conditions would not match the Council's duty of care to the public	III	E

14.4 Of the risks detailed above none is already managed within a service plan.

14.5 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



14.6 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

**15. Recommendation**

- 15.1. That members of the Committee: **Adopt the amended conditions with immediate effect.**

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**Data Quality**

Data sources: None

**Background Papers: None**

**APPENDICES / ATTACHMENTS**

APPENDIX A: Draft Private Hire Driver Conditions for adoption

APPENDIX B: Draft Private Hire Vehicle Conditions for adoption

APPENDIX C: Draft Private Hire Operator Conditions for adoption

APPENDIX D: Consultation responses.

APPENDIX E: Current Private Hire Driver Conditions

APPENDIX F: Current Private Hire Vehicle Conditions

APPENDIX G: Current Private Hire Operator Conditions