

MONMOUTHSHIRE COUNTY COUNCIL REPORT

SUBJECT:	Taxi and Private Hire Policy and Conditions 2023
DIRECTORATE:	Social Care, Safeguarding and Health
MEETING:	Licensing and Regulatory Committee
Date to be considered:	31st January 2023
DIVISION/WARDS AFFECTED:	All Wards

1. PURPOSE:

- 1.1 To consider proposed amendments to the Council's Taxi and Private Hire Policy and Conditions 2023, further to the recently completed consultation with the trade.

2. RECOMMENDATIONS:

- 2.1 Members approve the new policy and conditions to come into force on 1st April 2023, attached as Appendix B. The approval of this policy will be subject to a decision being made that relate to vehicles as per 2.2 below.
- 2.2 Members determine and approve the following in relation to Euro 4 Standards. Vehicles currently licensed by Monmouthshire County Council for Hackney Carriage and Private Hire purposes can retain grandfather rights and continue to be licensed for the shelf life of their vehicle. All new vehicle application will be required to be of Euro 6 standard.

KEY ISSUES

- 3.1 At the Licensing and Regulatory Committee held on 8th November 2022, Members agreed for a consultation to take place on the revised Taxi and Private Hire Policy and Conditions 2023. Certain concerns were noted which warranted further consideration. These are summarised as follows -
 - (a) The cost and availability to those that have to conduct overseas checks when carrying out an enhanced check in order to become a licensed Hackney Carriage and Private Hire Driver.
 - (b) The proposal to potentially introduce driver proficiency tests for prospective applicants who wish to hold a Hackney Carriage and Private Hire Drivers Licence.

It was agreed that that consultation should continue to take place. The matters raised above, along with any responses received on this policy, to be deferred back to the Licensing and Regulatory Committee on 31st January 2023.

- 3.2 The policy referred to in 3.1 above was based on Welsh Government's recommended template issued on 1st October 2021, which is attached to this report as Appendix A. This template forms the basis for further development by Welsh Government into national standards. The Welsh Government template further encompasses the Department for Transport (DfT) Taxi and Private Hire Vehicle Standards published in July 2020. The standards focus on protecting children and vulnerable adults. The DfT standards have effect in Wales even though responsibility for taxi and private hire vehicle policy has been devolved to

the Welsh Assembly. However, should the Welsh Government introduce legislation to regulate on these matters, the DfT standards would cease to apply.

3.3 Consultation on the Taxi and Private Hire Policy and Conditions 2023 (attached to this report as Appendix B) took place between 14th November – 30th December 2022.

3.4 The Licensing Section has received two responses from members of the taxi trade to the policy, requesting consideration be given to the proposal relating to Vehicle Emissions / Environmental Policy. The responses are attached to this report as Appendix C.

3.5 Vehicle Emissions/Environmental Policy

3.5.1 The revised 2023 Policy on Vehicle Emissions/Environmental Policy states

- New Hackney Carriage & Private Hire Vehicles licences will only be granted on vehicles that meet Euro 6 Standard.
- Transfer of Hackney Carriage & Private Hire Vehicles licences will only be granted on vehicles that meet Euro 6 standard.
- Replacement of Hackney Carriage & Private Hire Vehicle. An existing vehicle licence holder (a proprietor that has held a current licence before introduction of the policy and has continued to renew this licence) may change the vehicle on that licence if the vehicle meets minimum Euro 5 standards (unless the vehicle meets authority wheelchair accessible policy, thus meaning the vehicle meeting the lower standard of Euro 4). Vehicle licences granted after the introduction of the policy will only be granted to replace vehicles that meet Euro 6 standard.

3.5.2 To assist, Euro standards can be found on the V5 or V5C logbook for a vehicle. The Euro Standards would have been introduced dependent upon the age of the vehicle from date of manufacture.

Euro 2 standards vehicles manufactured from January 1996

Euro 3 standards vehicle manufactured 1st January 2000 - 31st December 2004

Euro 4 standards vehicle manufactured 1st January 2005 - 31st August 2009

Euro 5 standards vehicle manufactured 1st September 2009 - 31st August 2014

Euro 6 standards vehicles manufactured from 1st September 2014

Currently Monmouthshire County Council licence:

- Out of 86 Hackney Carriage Vehicles, 12 fall into Euro 4 standards, 40 fall into Euro 5 standards, 34 fall into Euro 6 Standards (2 of which are wheelchair accessible).
- Out of 84 Private Hire Vehicles, 2 fall into Euro 3 standards, 11 fall into Euro 4 standards (3 of which are wheelchair accessible), 45 fall into Euro 5 standards (10 of which are wheelchair accessible), 26 fall into Euro 6 Standards.

3.5.3 Given the number of vehicles currently licenced by Monmouthshire County Council that fall below Euro 6 Standards, this necessitates further consideration. Members may wish to consider allowing those currently licensed to retain their grandfather rights and allow their vehicles to continue to be licensed for their shelf life. New vehicle licence applications would be required to meet the required Euro 6 standards.

3.6 Overseas criminal record check

- 3.6.1 At the Licensing and Regulatory meeting on 8th November 2022, a query was raised regarding the requirement for overseas criminal record checks. The issue raised concerned how overseas criminal checks are undertaken, if there is no link to the EU data files. It was suggested that, depending on the European country concerned, there could be financial discrimination for holders of European passports.
- 3.6.2 The Immigration Act 2016 amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle and hackney carriage sector, with effect from 1 December 2016. The provisions in the 2016 Act prohibit all licensing authorities across the UK from issuing to anyone who is disqualified by reason of their immigration status and they discharge this duty by conducting immigration checks. As such, applications would not be accepted unless the person has the right to work in the United Kingdom.
- 3.6.3 Section 51(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a Council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a drivers licence. As a result of this Local Authorities are permitted to carry out enhanced disclosure and barring checks.
- 3.6.4 On 12th June 2018 the Licensing and Regulatory Committee adopted the Institute of Licensing Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades within the taxi policy. This included the requirement for overseas checks. The revised policy, attached to this report, continues to uphold this, noting it is essential to ensure all drivers, regardless of their background or country of origin, are 'fit and proper' to hold a Monmouthshire County Council licence. Primarily this Authority must ensure all licensed drivers can evidence they are fit to drive, for the purpose of ensuring paying passenger safety at all times. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.6.5 Section 57(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that the local authority has the power to require an applicant to provide "such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence."
- 3.6.6 Welsh Government provides Taxi and private hire vehicles licensing guidance for local authorities, to ensure operators and vehicle drivers meet licensing requirements. The Welsh Government guidance specifically refers to the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' April 2018, to assist Local Authorities in assessing the suitability of applicants and licence holders.
- 3.6.7 The Institute of Licensing Guidance states that "All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks and further states "If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required. As adopted by Monmouthshire County Council, please refer to 3.6.4 above.

3.6.8 In the absence of primary evidence such as Enhanced DBS Certificate or evidence of a criminal record check, there is no way a Local Authority, with a sufficient degree of certainty, can fully assess whether an individual is a fit and proper person in accordance with Local Government (Miscellaneous Provisions) Act 1976.

3.6.9 The proposed Taxi and Private Hire Policy and Conditions 2023 attached to the report as appendix B states:

All applicants for a hackney carriage or PHV driver's licence that have spent 6 or more continuous months outside the United Kingdom since their tenth birthday the Licensing authority will need to see evidence of a criminal record check from the country / countries visited covering the period that the applicant was overseas.

The applicant will be required to cover any financial costs of such checks.

For EU nationals (including UK citizens) suitable checks should be available. For those countries for which checks are not available, the Licensing authority will require a certificate of good conduct authenticated by the relevant embassy. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Information regarding certificates of good conduct or similar documents from a number of countries is available from: [GOV.UK Criminal records checks for overseas applicants](#).

In the event that an applicant is not able to obtain a certificate of good conduct, they should not progress with their application and should contact the Licensing authority for further information.

Overseas criminal history checks must have been obtained within the 6 month period preceding the application.

The Licensing authority will require any Certificate of Good Conduct that the applicant may have regardless of the age of the document.

Certificates of Good Conduct which are in a language other than English will be required to be translated into English at the applicant's expense by an independent translation service and the translation must be verified.

3.6.10 The link within 3.6.9 above, of the policy is the Disclosure and Barring Service advice on how to obtain the overseas checks along with prospective fees for those checks. The cost of obtaining a certificate of good conduct can vary from country to country but approximately range from £2.50 to £45.

3.7 Driver Proficiency and Qualifications

3.7.1 A proposal of a possible introduction of driver proficiency tests for prospective applicants who wish to hold a Hackney Carriage and Private Hire Drivers Licence was mentioned at the Licensing and Regulatory Committee on 8th November 2022.

3.7.2 The proposed Taxi and Private Hire Policy and Conditions 2023 attached to the report as Appendix B states:

All new applicants who have “totted” up 6 penalty points via minor traffic offence(s) will be required to undertake and pass a Pass Plus Course or a course approved by the Licensing Authority and also provide a pass certificate, (the test pass must be no older than 12 months old and is at the applicant expense).

- 3.7.3 An enquiry was made with all Welsh Authorities as to their current driver proficiency requirements. Newport requires the driver to achieve a Pass + course if they have more than 5 points on their DVLA licence at the time of application. All the other Welsh Authorities do not require driving proficiency course with the exception of Merthyr who require a pass certificate from an advanced motoring course for any driver.
- 3.7.4 The Welsh Government template, which Monmouthshire proposes to adopt as in 3.7.2 above, do not require a Pass Plus proficiency driving qualification unless there are concerns with the standard of their driving, i.e. if they tot up 6 points on their DVLA licence. An average cost of a Pass Plus course in Wales is currently £200 and this cost would be borne by the applicant, in order to prove they are suitable to hold a hackney carriage/private hire drivers licence.
- 3.7.5 It is therefore proposed that the Welsh Government recommendation be retained. As stated in 3.2 above, the Welsh Government template forms the basis for further development by them into national standards and the taxi policy may be subject to further change to accommodate this. Welsh Government were made aware of the proposal that all applicants should do a proficiency driving course.

4 REASONS

- 4.1 The report informs Members to have regard to the Department of Transport’s Statutory Taxi and Private Hire Vehicle Standards dated July 2020. The report highlights the requirement to amend Monmouthshire County Council’s existing Taxi and Private Hire Policy and Conditions. These changes form the basis for further development by Welsh Government into national standards.

5. RESOURCE IMPLICATIONS:

- 5.1 All Licensing fees and charges are recovered on a cost recovery basis.

6. WELLBEING AND FUTURE GENERATIONS IMPLICATIONS:

- 6.1 The ‘Future Generations’ template is attached as Appendix D.

7. CONSULTEES:

None

8. BACKGROUND PAPERS:

Department for Transport, Taxi and Private Hire Licensing Guide: Best Practice Guide
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904369/statutory-taxi-and-private-hire-vehicle-standards-english-28-07-2020.pdf

<https://gov.wales/taxi-and-private-hire-vehicles-licensing-guidance-html>

9. AUTHOR:

Linda O’Gorman Principal Licensing Officer

CONTACT DETAILS: Tel: 01633 644214
Email: lindaogorman@monmouthshire.gov.uk