

# Shadow Executive (Cabinet)

<b>Title of Report:</b>	<b>West Suffolk Taxi Policy Handbook</b>	
<b>Report No:</b>	<b>EXC/SA/19/009</b>	
<b>Report to and date:</b>	<b>Shadow Executive (Cabinet)</b>	5 February 2019
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<b>Purpose of report:</b>	To agree the harmonised West Suffolk Taxi Policy Handbook	
<b>Recommendation:</b>	<p><b>It is <u>RECOMMENDED</u>: That</b></p> <p><b>(1) the harmonised Taxi Policy Handbook for West Suffolk Council, as contained in Appendix A to Report No: EXC/SA/19/009, be adopted, including the following key areas:</b></p> <ul style="list-style-type: none"> <li><b>a. Continuing the two existing licensing areas (including livery)</b></li> <li><b>b. Aligning licensing requirements for the age of taxi vehicles</b></li> <li><b>c. Other proposed changes, as detailed in Report No: EXC/SA/19/009</b></li> </ul> <p><b>(2) the Taxi Policy Handbook be reviewed by West Suffolk Council within two years to review licensing areas across West Suffolk; and</b></p> <p style="text-align: right;"><i>Continued over.....</i></p>	

	<b>(3) a public consultation on the revocation of hackney carriage byelaws be undertaken so that the matter can be considered at an early meeting of West Suffolk Council.</b>
<b>Key Decision:</b> <i>(Check the appropriate box and delete all those that <b>do not</b> apply.)</i>	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>
<i>The decisions made as a result of this report will usually be published within <b>48 hours</b> and cannot be actioned until <b>five clear working days of the publication of the decision</b> have elapsed. This item is included on the Shadow Decisions Plan.</i>	
<b>Consultation:</b>	A public consultation was undertaken from the 10 September to 5 November 2018
<b>Alternative option(s):</b>	<ul style="list-style-type: none"> <li>Do not adopt the harmonised policy and keep separate policy handbooks for the licensing areas of Forest Heath and St Edmundsbury (not recommended as Private Hire Vehicles will be able to operate across the whole of West Suffolk)</li> <li>Adopt the draft policy handbook with omission of some policy proposals (see recommendations 1 a-c above)</li> <li>For example, agree a universal livery requirement for hackney carriages and adopt the harmonised policy with amendments to combine the current licensing areas of Forest Heath and St Edmundsbury</li> </ul> <p>Further information can be found in section 3.1.1 of the report</p>
<b>Implications:</b>	
<i>Are there any <b>financial</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •
<i>Are there any <b>staffing</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •
<i>Are there any <b>ICT</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •
<i>Are there any <b>legal and/or policy</b> implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> <li>The creation of a single council requires a universal policy across West Suffolk</li> <li>The different requirements set out in Forest heath byelaws and the St Edmundsbury byelaws have now been included in the draft policy handbook and aligned. This means there is now the option to revoke</li> </ul>

	the byelaws as they could be obsolete		
<i>Are there any <b>equality</b> implications? If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> <li>Mainly positive impacts for protected groups, see section 3.2.3 of the report</li> </ul>		
<b>Risk/opportunity assessment:</b>	<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>		
<b>Risk area</b>	<b>Inherent level of risk</b> (before controls)	<b>Controls</b>	<b>Residual risk</b> (after controls)
<b>Perception of restricting competition among hackney carriages</b> – continuing the current licensing areas of FHDC and SEBC could be perceived as prevents the market being opened up across West Suffolk, which could be perceived as limiting competition	High	The proposal to maintain the status quo should not cause any change to the supply and demand. All communications will make it clear that this is only for a 2 year transitional period, where the public and the trade will have their say on the matter as part of a wider review and more evidence can be collected on current supply and demand in FHDC and SEBC	Medium
<b>Small financial burden for certain licensees</b> – tightening some maximum age requirements in order to align them could lead to a small increase financial burden for certain licensees licensing a new vehicle	High	Harmonised age requirements have been carefully reviewed to balance increasing costs for some SEBC taxi businesses with maintaining a high standard of taxi vehicle, in terms of both appearance and safety. This has been reviewed in our equality screening assessment	Medium
<b>Uncertainty regarding vehicle livery requirements in the long term</b> – delaying a decision on long term livery requirements could lead to confusion among new and existing licensees intending to put a new vehicle on the road over the next 2 years	High	It is proposed that licensing officers recommend a black base colour to any proprietors looking to put a new vehicle on the road during the transitional period	Medium
<b>Ward(s) affected:</b>	All Wards		

<p><b>Background papers:</b> <i>(all background papers are to be published on the website and a link included)</i></p>	<p>Joint Cabinet approval to consult on a draft West Suffolk Taxi Policy Handbook: <a href="#">CAB/JT/18/018 and Addendum</a></p> <p>Law Commission review of the legal framework relating to taxis and private hire vehicles: <a href="#">Summary Report 2014</a></p>
<p><b>Documents attached:</b></p>	<p><b>Appendix A</b> – draft policy <b>Appendix B</b> – public consultation summary <b>Appendix C</b> – trade drop in sessions summary <b>Appendix D</b> – summary of changes <b>Appendix E</b> – Equality Screening Assessment</p>

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## 1. Key issues and reasons for recommendation(s)

### 1.1 Background

- 1.1.1 Local Authorities have responsibility for licensing taxis under the Town Police Clauses Act 1847 as amended by the Local Government (Miscellaneous Provisions) Act 1976. The term 'taxi' is relatively modern, and covers two different denominations: hackney carriage and private hire vehicles.
- 1.1.2 Local Authorities license vehicles, drivers and operators of private hire vehicle businesses. This means a council's licensing policy needs a variety of standards in order to ensure customer, driver and operator safety and comfort.
- 1.1.3 There are nearly 700 drivers currently licensed by West Suffolk Councils. Table 1 shows the breakdown of taxi licences across West Suffolk:

**Table 1**

<b>Licence Type</b>	<b>FHDC</b>	<b>SEBC</b>	<b>West Suffolk</b>
Hackney carriage vehicles	130	76	206
Private hire vehicles	41	344	385
Private hire operators	20	74	94
Drivers	198	488	686
<i>Total</i>	<i>389</i>	<i>982</i>	<i>1,371</i>

- 1.1.4 West Suffolk is classified as a 'predominantly rural' area under the 2011 census data. Rural areas see fewer public transport options than urban areas so taxi transport is crucial for rural accessibility, allowing people to access jobs and services.
- 1.1.5 This review represents a collection of changes, based on the need to harmonise the existing Forest Heath and St Edmundsbury policies in preparation for the creation of West Suffolk Council on 1 April 2019. The remit includes all areas of taxi regulation, apart from hackney carriage fares which were being reviewed separately.

### 1.2 Harmonising taxi policy

- 1.2.1 As stated above, this review is part of a process to align taxi licensing policy across West Suffolk, which began in 2017 with the alignment of most licensing requirements and new maximum vehicle age requirements in St Edmundsbury. It is proposed that a transitional policy is approved at this time to allow for wider review by West Suffolk Council.
- 1.2.2 Whilst the reasons for these policy changes are complex and varied, we seek to uphold the following principles:
- Increased affordability for vehicle drivers/proprietors (while not compromising on standards)
  - Fairness for taxi customers

- Increasing standards for vehicle condition
- Equality across West Suffolk
- Uphold the Single Council implementation principles, particularly not taking 'avoidable decisions that would constrain or restrict the operation of West Suffolk Council'.

1.2.3 The principles also include the aim to adapt our proposed approach when feedback deems that this is necessary.

1.2.4 The policy areas that need to be reviewed in order to harmonise the taxi policy handbooks are explained in more detail below and reflected in the draft policy set out in **Appendix A**. All changes were summarised for public consultation and this summary can be found in **Appendix D**. The following areas were approved for consultation by the West Suffolk Councils' Joint Executive (Cabinet) Committee in July 2018:

- Hackney Carriage Licensing areas (our proposal also addresses the difference in vehicle livery)
- Maximum age of vehicles upon first licensing
- Byelaws
- Improving our private hire vehicle operator policy (logging and reporting complaints)

The last bullet point relates to a number of small changes that required review as part of general updates to the licensing policy.

### 1.3 **Licensing areas**

1.3.1 The creation of a new West Suffolk Council will mean a single licensing authority for all of West Suffolk therefore private hire cars can operate anywhere. This requires alignment of the remaining policy areas that apply to both hackney carriage and private hire vehicles, since private hire vehicles can operate anywhere within the licensing authority area.

1.3.2 As part of the policy development and in response to claims made by some taxi businesses, officers investigated whether there was the option to continue the current hackney carriage licensing areas of Forest Heath and St Edmundsbury, despite us becoming a single licensing authority.

1.3.3 Officers' research found that a small number of licensing areas outside London are sub-divided into areas known as 'zones' for the purposes of hackney carriage licensing. Such areas are the result of local authority reorganisation and remain in place until revoked by the appropriate body i.e. the licensing authority. The introduction of new zones within existing licensing areas is not permitted and so amalgamation of existing licensing areas is a permanent decision.

1.3.4 Advice has been sought on the legal basis of continuing these licensing areas and this depends on how they were originally adopted by Forest Heath and St Edmundsbury councils. The Local Government Miscellaneous Provisions Act 1976, which identifies that councils may resolve that provisions of the original legislation (Town Police Clauses Act 1847 Act) apply to the whole or part of the area of the council. In response, Forest Heath and St

Edmundsbury councils resolved for the provisions to come into force across their areas. This, in turn, applied the licensing regulations set out by the 1847 Act to the areas of the councils separately to the council itself.

- 1.3.5 The Local Government (Boundary Changes) Regulations 2018 transfers everything from Forest Heath and St Edmundsbury councils to West Suffolk Council and allows for continuity with respect to this issue. The regulations do not preclude West Suffolk Council from taking steps to remove the licensing areas from the predecessor Forest Heath and St Edmundsbury areas which means the new Council can retain the licensing areas whilst considering them as part of a comprehensive review of taxi policy.
- 1.3.6 It should be noted that the continuation of the existing licensing areas for a short period was the approach taken by eight of the nine unitary authorities during their creation as part of the local government reorganisation in 2009. A number of these unitary authorities have since consulted on these areas, formally known as 'zones', and three authorities decided to amalgamate their hackney carriage zones as a result of public consultation.
- 1.3.7 In line with this precedent, the proposal is to continue licensing areas to maintain the status quo and for West Suffolk Council to be recommended to complete a more comprehensive review within two years of 1 April 2019. This approach is in line with the principles in the Implementation Plan approved by West Suffolk Shadow Council:
- We are not expecting the creation of a single council to impact on service delivery. Where there is an impact we will aim to minimise the impact on our residents, communities, businesses, service users and other local stakeholders and partners.
  - We will not take avoidable decisions that would constrain or restrict the operation of West Suffolk Council.
- 1.3.8 The proposal to retain the existing formal licensing areas of Forest Heath and St Edmundsbury would maintain the status quo until a more comprehensive review could be undertaken, including a survey of supply and demand. This will increase our evidence base and allow us to respond to anecdotal evidence of saturation in some areas. The hackney carriage activities that would see no change under these proposals are:
- Ranks that can be used
  - Areas where they can 'ply for hire' on public land (which does not include the military bases and racecourses)
  - Vehicle livery requirements
- 1.3.9 There is currently a requirement for all hackney vehicles in Forest Heath to have a livery, namely a black base colour and yellow wrap on the bonnet and boot or tailgate. The St Edmundsbury hackney vehicles have no livery requirements. The proposal to continue the licensing areas for a two year transitional period includes keeping the current livery requirements in these separate licensing areas. During this transitional period, licensing officers would recommend buying a black vehicle to any existing or potential licensee looking to licence a vehicle before a long term decision can be made on hackney vehicle livery.

#### 1.4 **Maximum Vehicle Age**

- 1.4.1 Vehicle licensing requirements relate to both hackney carriage and private hire vehicles and therefore must be harmonised before the creation of a single licensing authority for West Suffolk. The alignment of vehicle age requirements began in 2017 with the introduction of the maximum ages in St Edmundsbury. Following analysis of all licensing age requirements compared to neighbouring local authorities and following consultation we produced the proposals in table 2 below. It should be noted that the maximum age for Wheelchair Accessible Hackney Vehicles has been updated following feedback from the consultation feedback. We originally consulted on a maximum age of 1 year upon first licensing.
- 1.4.2 It should be noted that the Department for Transport best practice guidance (2010) advises against having any vehicle age requirements and instead using vehicle inspections as a way of regulating vehicle condition. Our own best practice research of East Anglian authorities and 'nearest neighbours', as defined by the CIPFA index, suggests that a majority of licensing authorities do use age as a metric to regulate vehicle condition, to ensure the standard vehicle condition across the taxi fleet is sufficient and consistent. We go further than some authorities by ensuring all our taxi vehicles undergo biannual inspections by our approved garages.

**Table 2**

<b>Vehicle Type</b>	<b>FHDC</b>	<b>SEBC</b>	<b>Proposals (following consultations)</b>
Private Hire Vehicles	3 years and 3 months for all vehicles	7 years	5 years
Saloon Hackney Carriages*		7 years	5 years <i>(consultation: 3 years, 3 months)</i>
Wheelchair accessible Hackney Carriages		New upon first licensing (delivery mileage only)	3 years 3 months <i>(consultation: 1 year)</i>
Private Hire Vehicle Age exemption	N/A	Vehicles in exceptional condition	Keep exemption but tighten eligibility criteria to executive/ chauffeur driven vehicles only

\* Since the Equality Act 2010 new licence plates cannot be issued for saloon taxi vehicles, meaning only existing taxi licences can be applied to a hackney vehicle

- 1.4.3 In summary, this review represents a collection of changes, including both relaxing and tightening of requirements depending on type of vehicle and authority. We understand these changes are complex, so we have proposed a compromise based on our analysis of the relative impact of an increase/decrease in regulation in each current licensing areas. The relaxing



of requirements should increase affordability for some vehicle proprietors, while not compromising on standards as vehicles already undergo biannual safety checks as standard. Where maximum age has been tightened, it is a result of trying to align the age fairly across West Suffolk while maintaining the standard of our taxi fleet, both in terms of safety and appearance to customers.

## 1.5 **Approved Garages**

- 1.5.1 Currently all St Edmundsbury taxi vehicles are required to undergo inspections at a single approved garage in Bury St Edmunds (the council depot). In contrast, Forest Heath drivers can use any of five approved garages within the area. We propose updating the policy to allow inspections to take place at any 'approved garage' across West Suffolk. An updated list of approved garages will be made available to licensees by 1 April 2019.
- 1.5.2 In line with this proposal, the licensing team are also working with current approved garages on ways to improve consistency of vehicle inspections. This would further ensure that vehicles across West Suffolk are kept to exactly the same standard in terms of both appearance and safety.

## 1.6 **Byelaws**

- 1.6.1 Following the Byelaws (Alternative Procedure) (England) Regulations 2016, councils now have the power to amend and revoke outdated byelaws without permission from central government. The byelaws only apply to hackney carriages and some byelaws across England originate from the nineteenth century.
- 1.6.2 The current Forest Heath and St Edmundsbury Taxi Handbooks contain the byelaws for the respective authority areas. A majority of the requirements in these byelaws are duplicated in the current policy. The two sets of byelaws contain minor differences, including:
- Hackney carriage furnishings (inside)
  - Driver and proprietor behaviour
  - Penalties for non-compliance with the byelaws
  - Hackney carriage stands (place based)
- 1.6.3 Firstly, it is proposed that all the current byelaw requirements are included in the draft West Suffolk Taxi Policy Handbook, found in **Appendix A**.
- 1.6.4 Secondly, it is proposed that we initiate the formal process to revoke the hackney carriage byelaws. This includes publishing a revocation byelaw and a regulatory assessment outlining why the byelaws are no longer relevant and then a public consultation lasting at least 28 days. Subject to the public consultation, the revocation byelaw can then be agreed and signed at a meeting of the full West Suffolk Council.

## 1.7 **Other changes**

- 1.7.1 The National Institute for Licensing guidance for local authorities on determining the suitability of applicants and licensees in the hackney and

private hire trades. Our policy is robust and already encompasses most of the requirements set out in this guidance. However, the opportunity has been taken to add one minor requirement for all operators to keep a record of all complaints and report more serious complaints to the licensing authority.

## **2. Consultation**

### **2.1 Public Consultation**

2.1.1 Due to the nature of the taxi regulation, licensing officers frequently engage with taxi businesses and their representatives. These informal, ongoing conversations informed the initial proposals. A public consultation on these proposals, set out in the draft policy, was held between 10 September and 5 November 2018.

2.1.2 All licensees were contacted directly and invited to complete the online survey. Other key stakeholders were also invited to comment via the survey, including:

- Other responsible authorities (e.g. Suffolk Police, Fire and Rescue Service)
- Other regulators (e.g. Trading Standards, neighbouring authorities)
- Business representatives (e.g. Chamber of Commerce, town centre BIDs)

2.1.3 The Forest Heath and St Edmundsbury Licensing and Regulatory Committees were briefed before and after the consultation as part of informal workshops. This provided helpful challenge and comments on the proposals. They were also invited to comment on the public survey directly.

2.1.4 Two drop in sessions for licensees were held in September and October 2018 to support this public consultation. These drop in sessions also supported the separate consultation on hackney carriage fares that was run in parallel. A summary of the drop-in session feedback relevant to this policy consultation can be found in **Appendix B** and **Appendix C**.

### **2.2 Feedback Summary**

2.2.1 It should be noted that overall there was a fairly low response rate from the taxi businesses, given the number of licences across West Suffolk (see paragraph 1.1.3). Overall there were 71 responses to the survey, a majority of which were taxi drivers and included:

- 10.1% of all Forest Heath drivers
- 6.4% of all St Edmundsbury drivers.

2.2.2 Those who did engage provided useful challenge and overall there was a wide diversity of views, as is commonly the case when engaging with the taxi trade. Where there was a majority in terms of agreement or disagreement with a specific proposal this was only marginal. Further details can be found in the consultation summary in **Appendix B**. In terms of

agreement with the specific policy proposals set out in 1, the survey results show the following:

- Continue existing licensing areas (zones): 41 out of 70 agreed/strongly agreed (13 had no opinion)
- Abolish Haverhill informal industry 'zone': 34 out of 70 had no opinion (21 agreed, 15 disagreed)
- Maximum age requirements upon first licensing a vehicle:
  - 5 years – all types of private hire vehicle: 44 out of 60 agreed
  - 3 years 3 months –saloon hackney carriages: 39 out of 70 agreed
  - 1 year – wheelchair accessible hackney carriages: 47 out of 68 agreed
- Tightening exemption to maximum age requirement for private hire vehicles: 48 out of 66 agreed
- Summary of other changes: One respondent supported the summary of changes stating that it removed 'red tape', the rest of the free text comments related to other areas of policy, operational issues and hackney carriage fares.
- Impact on those with protected characteristic: 54 out of 63 believed that the proposals would not have an impact on those with protected characteristic

2.2.3 Other issues raised during consultation are listed below, alongside officer comments:

2.2.4 Survey respondents were also invited to give suggestions at the end of the survey. This is included:

- Age is not reflective of vehicle condition, so we could:
  - Keep the higher maximum age requirements of St Edmundsbury
  - Replace with mileage requirements
  - Provide exemptions for vehicles with low mileage (e.g. below 50,000 miles)
  - Abolish age requirements and ensure vehicle inspection are more standardised
- Ensure consistency across types of vehicles (e.g. saloon hackney age should be 5 years like that for private hire vehicles)

It was also suggested that we need to improve enforcement to ensure private hire vehicles are not 'plying for hire'. This is a separate enforcement issue already being addressed by our licensing officers.

### **3. Options and Recommendations**

#### **3.1 Options Considered**

3.1.1 A number of options were considered throughout this process, including more long term options that did not require another policy review within two years. This included options for hackney carriage livery and permanently amalgamating the licensing areas.

3.1.2 As discussed above, permanent options are not recommended as more evidence regarding the following is required:

- Supply and demand of hackney carriages in the current areas of Forest Heath and St Edmundsbury (known as an 'Unmet Demand Survey')
- Public perception on taxi vehicle livery
- Wide public consultation on hackney carriage licensing areas

A wider review of taxi policy within two years would provide sufficient time to grow the evidence base on these three key issues.

### 3.2 **Recommendations**

3.2.1 It is recommended that the draft policy is adopted and that the new West Suffolk Council carry out a wide review within two years of 1 April 2019. To support this review a survey of supply and demand in the West Suffolk taxi market should be commissioned in order to support a long term decision on the two hackney carriage licensing areas of Forest Heath and St Edmundsbury. It is understood by officers that that the situation relating to licensing areas is both complex and emotive in nature and may have important consequences for the trade, the travelling public and for the local authorities. The decision would involve looking at one option that is permanent, in that the licensing areas cannot be split again, once amalgamated. It is believed this decision cannot be taken lightly or without full consideration of all of the various associated issues.

3.2.2 In order to support the trade through this transitional period, officers will recommend to anyone looking to purchase a new vehicle to licence in the next 2 years that they buy a black vehicle. This would ensure they are prepared for any future decision on whether there should be a livery across West Suffolk, and whether it should be a black base and yellow wrap as currently required for Forest Heath hackney carriages.

#### 3.2.3 Equality and Diversity Implications

An Equality Impact Screening Assessment has been carried out and can be found in **Appendix E**. This outlines that although there may be some financial impact for some St Edmundsbury licence holders due to the slightly lower maximum age of vehicles upon first licensing (5 years down from 7 years) this will not affect any of the protected characteristics disproportionately. The assessment also highlights multiple positive impacts for protecting the safety and increasing affordability for some taxi businesses, which includes:

- Additional requirements for operators to log complaints in response to best practice guidance for ensuring public safety
- Relaxing some maximum vehicle age restrictions, mainly for those in Forest Heath where the maximum is currently relatively low across all taxi types (3 years 3 months).