

REPORT TO KINCARDINE AND MEARN'S AREA COMMITTEE – 29 JUNE 2021

TAXIS AND PRIVATE HIRE CAR LICENSING REVIEW OF ADVERTISEMENT POLICY

1 Reason for Report / Summary

1. This Report concerns the review of the Council's Advertisement Policy for Taxi and Private Hire Cars and seeks the views of the Area Committee on the draft policy contained in **Appendix 1** to this report.

2 Recommendations

- 2.1 **The Committee is recommended to consider the terms of this report and:**
- 2.2 **Consider and comment on the proposed policy on taxi and private hire advertising in Appendix 1.**

3 Purpose and Decision Making Route

- 3.1 The Council's policy on taxi and private hire advertising is overdue for a review. The policy falls under the remit of the Business Services Licensing Sub-Committee. The Licensing Sub-Committee considered the terms of the proposed policy and authorised consultation on the proposed policy. Following the consultation period, including public consultation and with the taxi and private hire trade, a report will be brought back to the Licensing Sub-Committee for determination.

4 Discussion

The policy and its enforcement

- 4.1 The proposed draft policy is set out in **Appendix 1** to this report. The existing policy requires licence holders to ask the Council for permission to advertise on their vehicles (See: **Appendix 2**). The proposed new approach is to require all advertising to comply with the [standards required by the Advertising Standards Authority \(the ASA\)](#) without the need to ask for permission.
- 4.2 It is proposed that the Head of Legal and People be given delegated authority for enforcement of the policy. This would require the Council to approve a change to the Scheme of Governance, and if this new approach is adopted, changes will be proposed to the Scheme through Council at the next review of the Scheme if agreed.

- 4.3 Any alleged infringements of the Policy would be referred to the Head of Legal and People who could require the vehicle in question is produced for inspection. It is likely that this would be sub-delegated to the Civic Licensing Standards Officers. Infringements can be brought to the Council's attention by anyone, including Fleet Services when a vehicle is presented for testing.
- 4.4 Where it is deemed that the advert complied with the policy no further action would be taken.
- 4.5 Where it is decided that it did not comply, written notice would be issued to the licence holder who would be required to either remove the advert or amend it so as to comply with policy. The licence holder would have the right to challenge the decision and if they do so then the matter will be referred to the Sub-Committee for determination. Enforcement action would be suspended pending a decision by the Licensing Sub-Committee.
- 4.6 If the licence holder did not comply with the notice or a subsequent ruling by the Licensing Sub-Committee, they would be reported to the Sub Committee under paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982 for breaching a condition of their licence and the Sub-Committee could then decide what action to take which could include suspending the vehicle licence as a last resort. Full details of the enforcement procedures are set out in the policy attached. A useful flowchart has also been developed and is included as part of the policy.

Consultation

- 4.7 The consultation will take place electronically through the Council's Engage Platform and we will seek the views of taxi and private hire car operators on the terms of the draft revised policy. Public consultation will take place between the 7 June and 9 July 2021 (See: **Appendix 3** for the consultation questions.)
- 4.8 Thereafter, officers will collate the responses made to the consultation, will review the draft policy in light of those responses and a further report will be submitted to the Licensing Sub-Committee seeking approval of a final policy, agreement to an implementation date, authorisation to publish the terms of the policy on the Council's website and details on delegations and conditions required.

5 Council Priorities, Implications and Risk

- 5.1 The report helps deliver the following Council Priorities:-

Pillar	Priority
Our Environment	Infrastructure Resilient Communities
Our Economy	Economy & Enterprise

- 5.2 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed.

Subject	Yes	No	N/A
Financial			X
Staffing			X
Equalities			X
Fairer Scotland Duty			X
Town Centre First			X
Sustainability			X
Children and Young People's Rights and Wellbeing			X

- 5.3 An equality impact assessment is not required because this report seeks the acceptance of a proposal which does not have a differential impact on any of the protected characteristics. If the consultation provides evidence of any need for a full EIA then one will be completed.
- 5.4 There are no financial implications. Staff resource will be met from existing provision. There may be positive benefits for local businesses and the taxi trade of a more permissive approach to aid in the recovery.

6 Scheme of Governance

- 6.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.
- 6.2 The Area Committee is able to consider and take a decision on this item in terms of Section B1.2 of the List of Committee Powers Part2A of the Scheme of Governance as it relates to a policy consultation which will have an impact in the Area.

Ritchie Johnson
Director of Business Services

Report prepared by Lauren Cowie, Principal Solicitor (Governance)
Date 13 May 2021

List of Appendices:

Appendix 1 – Proposed Draft Policy
Appendix 2 – Current Policy
Appendix 3 – Consultation questions

APPENDIX 1

PROPOSED DRAFT POLICY

Aberdeenshire Council

Taxi and Private Hire Car Advertising Policy

(S.127 of the Civic Government (Scotland) 1982)

Introduction

- 1.1 This document sets out Aberdeenshire Council's policy on advertising in and on vehicles licensed by them as taxis and private hire cars. It also explains the way that the Policy will be enforced.
- 1.2 In this document the following words and expressions have the following meanings:
- a. **“the Act”** means the Civic Government (Scotland) Act 1982 as amended or any amending or replacement legislation governing the licensing of taxis and private hire cars.
 - b. Any words used in these conditions which are defined in the Act shall be interpreted in accordance with the definition of the Act.
 - c. the masculine will also include the feminine and where appropriate the singular will include the plural.

The following words shall have the meanings set out below:

Council	means Aberdeenshire Council, incorporated under the Local Government Etc. (Scotland) Act 1994 and having its Headquarters at Woodhill House, Westburn Road, Aberdeen, AB16 5GB or its statutory successor.
Driver	means in relation to a Taxi the holder of a current Aberdeenshire Council Taxi Driver's Licence and in the case of a Private Hire Car a driver holding a current Aberdeenshire Council Taxi Driver's or Private Hire Car Driver's Licence.
Licence	means a licence granted by the Council to any person for the purpose of operating a vehicle as a Taxi or Private Hire Car or the purpose of driving the same as appropriate during the currency or validity of such licence.
Licence Holder	means a person who has been granted and holds a current and valid vehicle licence from the Council in terms of Part II of the Act to operate either a taxi or a Private Hire Car unless otherwise stated.

Licence Plates	means the licence plates issued by the Council identifying licensed vehicles as hire cars which are required to be displayed in accordance with these conditions.
Notice	means a notice in writing.
PHC	means Private Hire Car.

- 1.3 These guidelines apply to all advertising and marketing material of any kind that appears on or in taxis and private hire cars and includes information presented to passengers .
- 1.4 The licence holder remains responsible for the content of any advertisement displayed on the vehicle, whether internal or external. It remains the licence holder's responsibility to comply with the current law and all relevant Codes of Practice irrespective of whether or not the advertising is deemed to comply with this Policy. The fact that advertising is deemed to comply with this policy should not be taken to mean that it is legal and complies with all other applicable standards.

Requirement of Policy

- 2.1. Advertising is permitted on and/or in all taxis subject to the following conditions:-
 - (a) Advertisements displayed on taxis will comply with the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code) (Twelfth edition) published by the Advertising Standards Authority which came into force on 1 September 2010 and all subsequent editions in force from time to time and any amendments made by the Advertising Standards Authority. In general and without prejudice to the detailed provisions of the Code advertising **must** :-
 - Not contain anything that is likely to cause serious or widespread offence. The fact that an advertisement may cause offence to some people does not of itself mean that it does not comply with this policy;
 - Not cause fear or distress;
 - Not contain anything that is likely to condone or encourage violence or anti-social behaviour;
 - Not condone or encourage an unsafe practice, especially those addressed to or depicting a child;
 - Not encourage consumers to drink and drive and where relevant include a prominent warning on the dangers of drinking and driving;
 - Not portray or represent anyone who is, or seems to be, under 18 in a sexual way;
 - Not include gender stereotypes that are likely to cause harm, or serious or widespread offence;

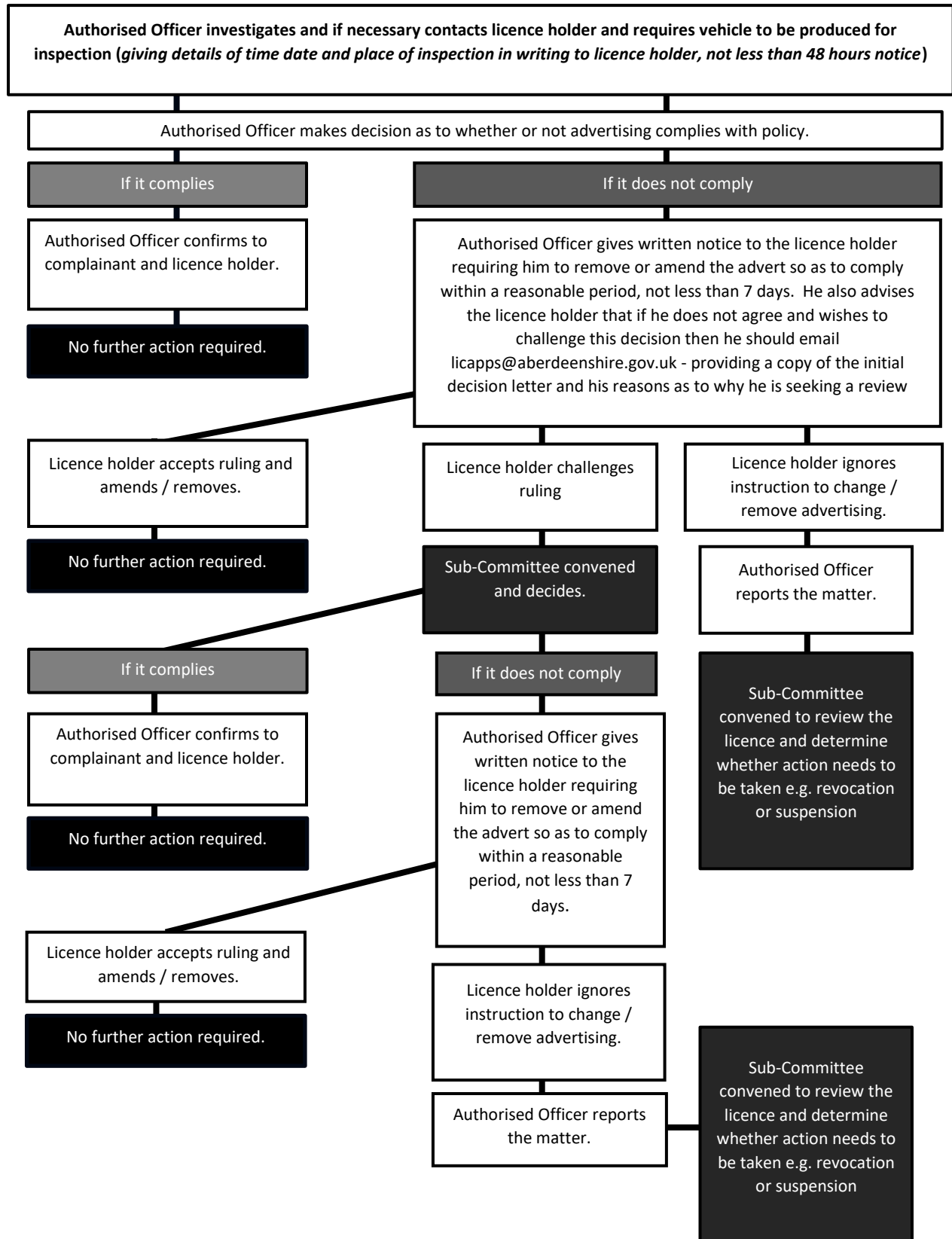
- Not where targeted directly at or featuring children exploit them;
 - Ensure that the basis of environmental claims is made clear;
 - Where it is for gambling be socially responsible, with particular regard to the need to protect children, young persons and other vulnerable persons from being harmed or exploited;
 - Not be targeted at people under 18 where it is for alcoholic drinks and should not encourage irresponsible or anti-social drinking.
 - Not encourage excessive drinking nor claim or imply that alcohol can enhance confidence or popularity;
 - Not link alcohol with activities or locations in which drinking would be unsafe or unwise;
 - Not condone or encourage unsafe or irresponsible driving;
 - Distinguish clearly between offers of employment and business opportunities;
 - Not contain unrepresentative or overstated earnings figures nor exaggerate the support available to investors for business opportunities;
 - Not advertise tobacco products or suggest that smoking is natural, safe, popular, glamorous or aspirational or that it can lead to social, sexual, romantic or business success;
 - Be socially responsible where it is for e-cigarettes and must contain nothing which promotes any design, imagery or logo style that might reasonably be associated in the audience's mind with a tobacco brand.
- (b) Advertisements must not be placed on :-
- Any of the vehicle's windows;
 - Obscure any identification plates, notices or roof signs
 - Or inside the vehicle so as to obscure the driver's vision in any direction;
 - The front elevation, i.e., radiator grill and the area either side of it.
- (c) Where the advertisement is full wrap and results in the colour of the vehicle being significantly changed then the vehicle will have to be re-registered with the DVLA. For example, if a white vehicle has a wrap which is blue then, albeit that the white paint has only been covered up, the vehicle will have to be re-registered as blue. Full wrap advertising means one advert covering the whole vehicle for only one company/ product/supplier
- (d) Advertisements must be made of a quality not easily defaced or detached. No magnetic panels, paper based materials or water soluble adhesive paste shall be

used. Advertisements must be affixed directly to the body of the Licensed Vehicle.

Ensuring compliance with Policy

- 3.1 Taxi advertising will not be permitted unless it complies with this Policy.
- 3.2 If the Council receives a complaint or it otherwise comes to the Council's attention that a vehicle is in breach of this Policy then the Council will investigate and may require that the licence holder produces the vehicle for inspection at a suitable place and on no less than 48 hours written notice in order that the advertising can be inspected. If the Council decides that the advertisement does not comply with the requirements of this Policy then the licence holder shall be given written notice to either remove the advertising or amend it within a reasonable period of time which shall be no less than 7 days. This initial step in the enforcement process will be carried out by the Council's Head of Legal and People through the Civic Licensing Standards Officers, acting under delegated powers.
- 3.3 In the event that the licence holder disagrees with the decision by the Head of Legal and People that the advertisement does not comply with the policy then they can email a notice of challenge to licapps@aberdeenshire.gov.uk explaining why they do not agree with the decision. They should attach a copy of the initial notice to them advising them that the advertisement does not apply.
- 3.4 The notice of challenge must be received within the time given for compliance in the initial non-compliance notice. Provided that the notice challenging the Head of Legal and People's decision is received within the time stipulated then the effect of the non-compliance notice which is being challenged shall be suspended pending the determination of the matter by the Licensing Sub-Committee or the withdrawal of notice by the licence holder challenging the decision. A report will then be put before the next meeting of the Licensing Sub Committee and the Sub Committee will make a decision as to whether or not the advertisement either complies with policy or if it requires to be amended to comply. The Sub Committee will give the licence holder the opportunity to be heard or make written representations prior to making its decision. In the event that the Sub Committee decides that the advertisement does not comply with this Policy then the licence holder will be given a reasonable period of time in which to comply with the decision of the Sub Committee which shall be no less than 7 days.
- 3.5 If the licence holder continues to use a vehicle as a taxi or PHC after having received a notice under para 3.2 from the Head of Legal and People which they have not challenged within the required time scale or after having received a decision from the Sub Committee and does not remove or amend the advertisement so as to comply then the matter will be reported to the Council's Licensing Sub-Committee as a breach of the conditions of the licence and the Sub-Committee may take such steps as it deems appropriate which may include suspension of the vehicle licence only after all other routes have been explored.

Enforcement Flowchart



APPENDIX 2

CURRENT POLICY

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 POLICY ON SIGNS/ADVERTISEMENTS ON TAXIS AND PRIVATE HIRE CARS

The Council on 25th August 2000 adopted a policy for signs/advertisements on taxis and private hire cars in order that clear guidelines on advertising and signs will be in place. The policy was amended on 3rd October 2003.

It is an existing condition of both Taxi and Private Hire Car Licences that the holder of a licence shall not display on his/her taxi or private hire car any advertisement, or any signs for the purpose of advertising its services as a taxi or private hire car other than those approved by the Licensing Authority. To deal with requests for approval of advertisements on vehicles the Council have approved a policy for each type of vehicle. The position regarding signs on vehicles is also clarified. The details are as follows:

Taxis

The only signs allowed on taxis shall be roof signs and the plate issued by the Licensing Authority.

Private Hire Cars

No signs are permitted on private hire cars.

The only form of advertising permitted is the display of the name of the Private Hire Car Firm, telephone number, e-mail address and website on the exterior of the front door panels of the vehicle and/or the exterior rear bodywork of the vehicle, subject to the lettering being no more than 2 inches high and 1 inches wide.

Any operator who wishes to display an advertisement on either a taxi or private hire car would require to submit his or her request to the Council for consideration under their adopted policy. Full details of the advert proposed, including wording, size of lettering and details of graphics would require to be submitted.

APPENDIX 3 TAXI AND PRIVATE HIRE CAR ADVERTISING POLICY

PROPOSED CONSULTATION QUESTIONS

Please note that before moving onto the survey respondents will be asked to confirm that they have read and understood the relevant privacy notice and that they consent to the taking and use of their personal data.

QUESTIONS

Q1 Are you?

Male	Female	Other	Rather Not Say
------	--------	-------	----------------

Q2 How old are you?

Under 18	18-24	25-34	35-44	45-54	55-64	65+
----------	-------	-------	-------	-------	-------	-----

Q3 In which capacity are you completing this survey?

Member of the Public	Taxi or Private Hire Car – Licence Holder
Taxi or Private Hire Car – Fleet Operator	Current Advertiser
Potential Advertiser	Community Organisation e.g. Community Council etc.
Statutory Partner e.g. Police Scotland	Rather Not Say

Q4 Do you think that Taxis and Private Hire Cars in Aberdeenshire should be able to advertise on their vehicles?

Yes	No	Unsure
Goes to Q4A	Goes to Q5	Goes to Q4A

Q4A Do you think that the Advertising Standards Authority Code should form the basis of the Council's policy when it comes to advertising on Taxis and Private Hire Cars?

Yes	No	Unsure
Goes to Q4A(1)	Goes to Q4A(2)	Goes to Q4B

Q4A(1) Do you support the proposed position to allow advertisements which meet the ASA Code to be affixed to Taxis and Private Hire Cars without prior approval subject to an active enforcement policy?

Yes	No	Unsure
-----	----	--------

Q4A(2) Please provide us with any alternative proposals which you feel should be considered?

<i>Text Box</i>

Q4B Is there any type of advertising which you feel should not be allowed to be displayed on a Taxi or Private Hire Car?

Yes	No	Unsure
Goes to Q4B(1)	Goes to Q4C	Goes to Q4C

Q4B(1) What are these and why?

<i>Text Box</i>

Q4C Is there any part of a Taxi or Private Hire Car which you feel is unsuitable for an advertisement to be placed?

Yes	No	Not Sure
Goes to Q4C(1)	Goes to Q4D	Goes to Q4D

Q4C(1) Where and why?

<i>Text Box</i>

Q4D Do you think that failure to comply with the policy by taking steps to remove or amend offending advertisements should result in the review of the licence holder's licence and the possible suspension or revocation of this?

Yes	No	Not Sure
Goes to Q5	Goes to Q4D(1)	Goes to Q5

Q4D(1) What action do you think should be taken if a licence holder fails to comply with this policy?

<i>Text Box</i>

Q5 Do you have any comments you would like to make in terms of the Council's proposed Taxi and Private Hire Car Advertising Policy?