

<b>Committee:</b> Members Privileges Sub (Policy and Resources) Committee	<b>Date:</b> 22 June 2017
<b>Subject:</b> Application of the Corporate Transport Policy to all Members - Update	<b>Public</b>
<b>Report of:</b> Director of HR and the Director of Transportation & Public Realm	<b>For Decision</b>

### **Summary**

In July 2015 the Establishment Committee approved a Corporate Transport Policy (CTP) for staff. At the Members Privileges Sub (Policy and Resources) Committee in December 2015, consideration was given to the application of the CTP to Members and Officers were asked to review the policy with the view of reducing its application to Members. Officers have completed this review and it is proposed that, having regard to risk, the CTP should not apply to Members but that it would be proportionate to circulate a briefing note to Members regarding the use of personal vehicles in relation to City of London Corporation business.

### **Recommendations**

Members are asked to:

- Approve the draft briefing note at Appendix A for circulation to Members.

### **Main Report**

#### **Background**

1. On 16 July 2015 the Establishment Committee approved the implementation of the CTP to City Corporation employees, casuals, agency workers, consultants, volunteers and contractors who undertake work-related driving. In response to a query at that meeting, Officers confirmed that the CTP would not be applied to Members at that time but that a further report would be brought before the Members Privileges Sub (Policy and Resources) Committee to consider this matter.
2. At its meeting on 10 December 2015, this Sub-Committee considered a report proposing the application of the CTP to Members. Members discussed whether aspects of the report were unnecessarily cautious and asked Officers to investigate comparable policies and review the policy with the view of reducing its application to Members.

#### **Current Position**

3. Officers have completed this review and received guidance from the Comptroller and City Solicitor's Department regarding the City Corporation's obligations and

liabilities in respect of Members' City Corporation related driving using their personal vehicles.

4. There is no legal requirement to apply the CTP to Members for the purposes of the Health and Safety at Work Act etc 1974 and related obligations. However, there is scope for the City Corporation to be held vicariously liable for accidents linked to Members' City Corporation related driving using their personal vehicles. Vicarious liability only arises in certain circumstances. A risk assessment has therefore been undertaken to evaluate the risk of vicarious liability arising and to inform a proportionate response to this risk.
5. The risk assessment (Appendix B) considers the journeys Members are likely to make in the course of undertaking their City Corporation duties and concludes that the risk of the City Corporation being held vicariously liable for an accident linked to Members' City Corporation related driving using their personal vehicle is low. Through the Association of London Transport Officers (ALTO) we have asked other Local Authorities if they include members/councillors in their transport policies and the majority of these officers responded that Members/councillors are not included in their transport policy.
6. It is noted that if Members drive a City Corporation vehicle, they would need to comply with all elements of the CTP when driving that vehicle.

## **Proposals**

7. The risk of the City Corporation being held vicariously liable for an accident linked to a Member's City Corporation related driving using their own vehicle is considered low. It is therefore proposed that this risk can be adequately addressed by putting Members on notice, by way of a briefing note, that when they use their own vehicle in relation to City Corporation business they should ensure that they hold a valid driving licence, their insurance policy is endorsed for such use and that they possess a valid MOT certificate where appropriate.
8. A draft briefing note is attached (Appendix A) and it is proposed to circulate this document to all Members via email and make copies available in the Members' Reading Room.

## **Corporate & Strategic Implications**

9. The proposal is in line with the City Together Strategy and the theme within the Strategy's vision to support our communities and in particular the goal "to improve people's health, safety and welfare within the City's environment through proactive and reactive measures and policies." It also supports the safer and stronger theme to the strategy and in particular the goals "to continue to ensure the City is a safe place".

## **Implications**

10. Were the City Corporation to be found vicariously liable for an accident linked to a Member's City Corporation related driving using their own vehicle, there may

be serious reputational and financial implications. However, having regard to the low risk of vicarious liability, it is considered that the proposal detailed above is proportionate.

## **Conclusion**

11. As the risk of vicarious liability is low it is considered appropriate that the CTP should not apply to Members. However, it is considered proportionate to circulate a briefing note to Members regarding the use of personal vehicles in relation to City of London Corporation business.

## **Appendices**

Appendix A	Draft Members Briefing Note
Appendix B	HST - 01 General Risk Assessment Form

## **Contact:**

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## Appendix A

### **Members Briefing**

#### **Corporate Transport Policy**

In July 2015 the Establishment Committee approved the implementation of the Corporate Transport Policy to City Corporation employees, casuals, agency workers, consultants, volunteers and contractors who undertake work-related driving. The Corporate Transport Policy ensures that everyone who drives on City business does so safely and in full compliance of all relevant legislation. The policy is managed by the Corporate Transport Management Team.

Our Corporate Transport Policy and procedures convey the City Corporation's commitment to managing the safety of people who drive on City Corporation business, and ensures that as a responsible organisation, we comply with relevant Health and Safety legislation. This legislation includes the Corporate Manslaughter and Corporate Homicide Act 2007 under which companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures, resulting in a gross breach of a duty of care.

The Corporate Transport Policy does not apply to Members if they use their own vehicle in relation to City business (e.g., travelling to a meeting or event). However, Members are asked to note that when using their own vehicles in relation to City business they should ensure that their driving licence, road tax and MOT are all valid, and that their personal insurance policy is endorsed for such use.

The Corporate Transport Policy will apply to Members if they drive a vehicle that is owned or leased by the City of London.


In the case of driving a vehicle owned or leased by the City of the London, Members would have to provide details of their driving licence and provide their consent to have this checked with the DVLA. They would have to have a driving assessment carried out by the Road Safety Team and an Occupational Health Assessment depending on age. They would also need to read the Policy and complete the online training course. Members Services will be able to assist Members with registering for the relevant online training course, licence checking service, driving and occupational health assessments if necessary.

Further information on the Corporate Transport Policy can be obtained by contacting the Corporate Transport Management Team on [transport@cityoflondon.gov.uk](mailto:transport@cityoflondon.gov.uk) or 020 7332 4996.

## Appendix B

**HST - 01 General Risk Assessment Form**

Risk Rating Matrix: <a href="#">See Guide to Determining Risk</a>		Severity			
		Minor	Serious	Major	Extreme
Likelihood	Likely	Low	Medium	High	High
	Possible	Low	Medium	Medium	High
	Unlikely	Low	Low	Medium	High
	Rare	Low	Low	Low	Medium

Department: Department of Built Environment		Service: Transport Management				
Assessment number: 002						
Workplace Address: Location or Section (Delete as appropriate) Guildhall				Review Date: 25 April 2017		
Assessment Date: 25 April 2016		What/who is being assessed? Risk of the City of London Corporation being held vicariously liable for an accident caused by a Member driving their own vehicle in relation to City business.				
Name of Assessor: Vince Dignam						
What are the hazards? [Or Issues]	Who might be harmed and how?	What are the existing controls?	Risk Rating (H, M, L)	What further action is necessary? <i>Always when Risk is Medium or High</i>	Action by when / whom?	Action complete (Date)
<p>There are 125 elected members and 177 Co-Opted members who could drive their own vehicle whilst on City business and not have correct driving licence, insurance cover or MOT.</p> <p>If the vehicle doesn't have a valid MOT wouldn't be deemed roadworthy and could cause an accident. The City could be held vicariously liable.</p>	<p>Members may not be covered if they don't have the correct level of insurance cover and driving licence.</p> <p>Members may suffer legal consequences for driving in without accordance to the Road Traffic Act.</p> <p>Other road users or pedestrians may be harmed in any accident that may occur.</p>	<p>The City does not require Members to drive their own vehicles to their City business. Members are free to choose their own method of transport to their City business.</p> <p>Officers have not identified any examples where Members driving their own cars is a City Corporation business activity.</p> <p>There have been no previous incidents.</p>	<p><b>Low</b></p> <p>Severity = Major</p> <p>Likely = Rare</p>	<p>A committee report will be sent to Members Privileges Sub (Policy and Resources) Committee recommending a briefing paper is circulated to Members. The briefing note will ask Members to note that when using their own vehicles in relation to City business, they should ensure that they have a valid driving licence, MOT and appropriate vehicle insurance.</p>	<p>September 2016</p> <p>DBE Assistant Director Cleansing and H&amp;S Manager</p>	
<p><b>NB - Following completion of the risk assessment you should ensure the controls identified are included within your work procedures / method statements / work instructions and safe systems of work</b></p> <p><a href="#">HSE Guide - Five steps to risk assessment</a></p>						