

Nottingham City Council

Regulatory and Appeals Committee

Minutes of the meeting held at Loxley House, NG2 3NG on 27 November 2023
from 9.30 am - 11.00 am

Membership

Present

Councillor Audrey Dinnall (Chair)
Councillor Gul Nawaz Khan (Vice-Chair)
Councillor Liaqat Ali
Councillor Kirsty Jones
Councillor Salma Mumtaz
Councillor Nick Raine
Councillor Audra Wynter

Absent

Councillor Sana Nasir
Councillor Matt Shannon

Colleagues, partners and others in attendance:

Ann Barrett	Team Leader, Legal Services
Nick Burns	Licensing and Policy Manager
Mike Carey	Governance Officer
John Davis	Taxi Licensing Compliance Manager

12 Apologies for Absence

None.

13 Declarations of Interests

Councillor Liaqat Ali declared that he is employed by a taxi operator and left the meeting for item 4, Hackney Carriage & Private Licensing Policy & Procedures Manual, item 5, Hackney Carriage Unmet Demand Survey, and item 6, Review of Age and Specification Policy Relating to Hackney Carriage and Private Hire Vehicles.

14 Minutes

The minutes of the meeting held on 17 October 2023 were confirmed as a correct record and were signed by the Chair.

15 Hackney Carriage & Private Hire Licensing Policy & Procedures Manual

John Davis, Taxi Licensing Compliance Manager, presented the report regarding the Hackney Carriage & Private Hire Licensing Policy & Procedures Manual ('the Manual'), and highlighted the following points:

- (a) The purpose of the Manual is to meet the recommendation made in July 2020 by the Department for Transport, for all licensing authorities to make available

a cohesive policy and procedures document on taxi and private hire vehicle licensing;

- (a) On 27 February 2023, the Committee resolved to release the Manual for an eight-week consultation (save for appendixes A-B and I-Q, which reflect already adopted policies and procedures). The consultation was carried out between 02 March 2023 and 27 April 2023;
- (b) One consultation response was received from the App Drivers & Couriers Union (ADCU), on behalf of 209 members;
- (c) A number of matters raised in that submission were outside the scope of the consultation, including comments about the constitution of the Committee that recommended the Manual be put to consultation, and are not therefore addressed in the report;
- (d) The points considered in response to ADCU's submission, and any changes to the Manual in response, are outlined in Appendix 2 of the public agenda pack. This includes a further condition to make it clear that where the operator is a company, partnership, or group, a basic DBS is needed for each director, partner, or individual, and not just the company, partnership, or group;
- (e) In addition to the amendments to the Manual mentioned in the report an additional paragraph has been included in the Enforcement, Convictions, and Fitness Policy (Appendix C of the Manual) regarding offences of discrimination, which is contained in the full Manual attached as a supplement to the agenda pack.

In the discussion which followed, and in response to questions from the Committee, the following points were made:

- (f) Committee Members asked for clarity as to why applicants or licence holders who are convicted of crimes of exploitation 'will not normally' be granted a licence, while some other offences have given time periods before which a licence will not normally be granted. Officers clarified that this does not mean the offense of exploitation is treated more leniently than those with defined time limits. The Statutory Taxi and Private Hire Vehicles Standards provide recommended time limits before which a licence will not normally be granted after conviction for various offenses, while the recommendation in relation to an applicant convicted of an offense of exploitation is to not normally grant a licence at any time;
- (g) The periods of time before which an applicant will not normally be granted a licence in the Enforcement, Convictions and Fitness Policy are aligned with the statutory guidance;
- (h) When an authority refuses to grant a licence, or suspends or revokes a licence granted previously, the applicant or licence-holder will have 21 days after the notice of refusal to lodge an appeal with the Magistrate's Court;

- (i) The additional paragraph related to offenses of discrimination relates to offenses outlined in the Equality Act 2010, and can include offenses such as refusing to pick up a customer with a guide dog or wheelchair. If the authority receives complaints of this nature they may prosecute the driver and subsequently review their licence, and if it is revoked the driver would not be eligible to be licenced for up to seven years. Nottingham City Council have prosecuted around seven drivers for refusing guide dogs. Safeguarding Vulnerable Passengers training is mandatory for applicants before they are granted licences, and covers their responsibilities under the Equality Act. This includes duties to provide mobility assistance and to carry guide dogs or assistance. Licence-holders can apply for an exemption certificate if they are unable to provide mobility assistance or carry guide or assistance dogs on medical grounds;
- (j) Committee Members requested clarification on the policy that an applicant that has a conviction for using a hand-held mobile phone or other hand-held device whilst driving will not be granted a licence until at least five years have elapsed since the conviction or completion of any sentence or driving ban. This would apply to those who have been convicted for the offence of using a hand-held device, which does not apply to drivers who use mobile phones or other devices attached to their window or dashboard as part of their work;
- (k) The Committee noted that the consultation received one response representing 209 drivers, but that the authority licenses around 2,100 drivers, and Members asked if this was representative or if there are improvements to be made in terms of engagement. Officers advised that the consultation was publicised with all operators, who passed it on to their drivers, and trade associations. It was publicised on the consultations section of the Council website, the Licensing team's website, and via social media. Additionally, the Licensing team hosted an event at Meadows Community Centre for hackney carriage drivers, with around 35-40 drivers attending, and the consultation was promoted face-to-face through officers walking around the taxi ranks to reach as many people as possible;
- (l) Officers noted that there may have been few responses because most of the policies collected in the Manual are already adopted, and the only major changes (such as updating the smoking policy in the Drivers' Code, and the timings after which licences will not normally be granted after specified offences) are in line with national standards and have been well publicised in the trade press already, so are not considered contentious;
- (m) A Committee Member asked if the consultation was released in any community languages other than English. Officers advised that the consultation was only provided in English, as a reasonable proficiency in English is a condition for obtaining a licence;
- (n) A Committee Member asked for clarity on the Disclosure and Barring Service requirements. Drivers require an enhanced DBS, while operators require a basic DBS.

Resolved:

- (1) That the Policy and Procedures Manual be approved and (save for appendices A-B and I-Q which reflect policies and procedures which are already adopted and in force) as per the revised Appendix 1 to the report and also to include a further revision in Appendix C section 5(1)(a) dealing with offences of exploitation to indicate that anyone convicted of such an offence “will normally be debarred from holding a licence”.**
- (2) the Policy and Procedures Manual (save for appendices A-B and I-Q which are already adopted and in force) be implemented from 01 January 2024. The revised conditions of licence will be attached to licences issued upon initial application or renewal from this date.**
- (3) Power to maintain and update the Policy and Procedures Manual to reflect any future changes to Policy or Procedure as and when they occur be delegated to the Head of Environmental Health and Public Protection and the Licensing & Policy Manager.**

16 Hackney Carriage Unmet Demand Survey

John Davis, Taxi Licensing Compliance Manager, presented the report regarding the Hackney Carriage Unmet Demand Survey, and highlighted the following points:

- (a) The Council currently limits the number of hackney carriage vehicle licenses to 420. This report considers the outcome of the Unmet Demand Survey and asks the Committee to consider whether it is appropriate to maintain this limit, change the limit, or remove it. Any proposed changes would prompt a public consultation;
- (b) The first option is to retain the existing restriction at 420, and the second option is to reduce the number of licences issued to 250:
 - i. The benefits of restricting the numbers relate to managing congestion, preventing over-ranking or the formation of unofficial ranks, which would add to air quality issues experienced across the city. A restriction also helps drivers earn a living wage, especially important after they may have made significant investments in purchasing compliant vehicles, and may prevent drivers working excessive hours which could affect the safety of the travelling public;
 - ii. The unmet demand survey indicated there is no unmet demand, with around 200 licenses issued. The number of licensed hackney carriages has remained around 200 in recent years due to social changes after Covid-19 and the introduction of the Age and Specification Policy;
 - iii. It is however contrary to the Department for Transport’s guidance and would need to be justified. In cases where vehicle licenses have reached their limit, they could then command a premium, often tens of thousands of pounds, though this is not currently the case in

Nottingham as it has not issued all vehicle licences. It would prevent the travelling public from enjoying more competition in the taxi market;

- iv. If a restriction is maintained, a further unmet demand survey would be required in three years' time, with current costs in the region of £19,140 which is likely to rise.
- (c) The third option is to remove the numerical restrictions on the number of hackney carriage licences issued:
- i. This option is in line with best practice guidance. It could potentially provide a better service for customers by increasing competition, and would let market forces dictate the number of hackney carriages without direct intervention, while the Age and Specification Policy continues to indirectly restrict the numbers of hackney carriages;
 - ii. This may be opposed by the taxi trade due to the perception of additional competition – though public safety is the primary licensing test and economic or business considerations are not relevant;
 - iii. There may be concern that the city would become flooded with more vehicles, causing congestion and pollution, though the effect would be counteracted by the Age and Specification Policy. There is a concern that drivers may have to work excessive hours which may affect passenger and driver safety.

In the discussion which followed, and in response to questions from the Committee, the following points were made:

- (d) Committee Members spoke in favour of the second option, to reduce the number of licences issued to 250. Drivers are already having to purchase expensive vehicles to comply with the Age and Specification Policy, and restrictions help them to earn a living;
- (e) There are concerns about pollution and congestion issues in the city which may be exacerbated by removing the restriction, and it was noted that other authorities had been flooding the city with taxis, causing congestion issues and depriving drivers of a reasonable living, prompting drivers to work excessive hours which can be unsafe;
- (f) The proposed reduction would require a consultation, and Committee Members emphasised the importance of ensuring engagement. The consultation would primarily go out to the hackney carriage trade, as the people most affected by any changes, but other stakeholders would be engaged, including disability groups and businesses in the city.

Resolved:

- (1) To recommend reviewing the existing policy on the issue of hackney carriage vehicle licences to reduce the limit on the number of hackney Carriage vehicle licenses to be granted by the Authority to 250.**
- (2) To carry out an eight-week consultation on the proposed change, starting in January 2024.**

17 Review of Age and Specification Policy Relating To Hackney Carriage And Private Hire Vehicles

Nick Burns, Licensing and Policy Manager, presented the report regarding the Review of Age and Specification Policy Relating to Hackney Carriage and Private Hire Vehicles, and highlighted the following points:

- (a) The Committee was asked to consider proposals to amend the Council's Age and Specification Policy, including the removal of the requirement for a minimum engine size, and to release the proposals for a four-week consultation;
- (b) The current Age and Specification Policy was adopted on 18 December 2017, and outlined various requirements to be implemented over a range of dates up to 01 January 2030. It is felt appropriate to review the Policy in light of changes in market and trade, and to reflect changes to national guidance and policy;
- (c) The government recently announced that restrictions on the sale of new petrol and diesel vehicles would be pushed back from 2030 to 2035, reducing the urgency to move the fleet to newer vehicles. It is proposed that the implementation date for requiring any vehicle being licensed for the first time as a hackney carriage or private hire to be ZEC ULEV be moved back from 01 January 2025 to 01 January 2027;
- (d) Since the adoption of the policy, a number of hackney carriage proprietors have chosen not to move over to Euro 6 and ZEC ULEV vehicles, in some cases resulting in appeals against the Council's decision not to renew licences for non-policy compliant vehicles, which were dismissed. A number of proprietors have chosen to leave the trade or move to other licensing authorities. There has been a reduction in the number of hackney carriage licenses issued from 411 to 205, and a reduction in private hire licenses from 1850 to 1566 since December 2019;
- (e) The trade has advised that it is difficult to source compliant vehicles, due to price increases and competition. There has also been a reduction in the makes and models of compliant vehicles being manufactured;

- (f) A significant number of proprietors are choosing to license their vehicles with other licensing authorities to keep using non-compliant vehicles, and are often able to continue to lawfully come into the Council's administrative area to trade, which can affect the Council's ability to keep members of the public safe where other licensing authorities' standards may not be in alignment;
- (g) A review has been carried out which seeks to address these issues while maintaining public safety and welfare. It is hoped that the proposed revisions will encourage proprietors to return or apply to the Council as licensing authority so that the majority of the fleet operating in the city is licensed by the Council, so that the Council has the ability to inspect vehicles, take appropriate enforcement action when necessary and increase public safety;
- (h) While the revised Policy applies less stringent requirements than those originally introduced, they aim to address the practicalities around current supply issues and financial climate while being consistent with guidance and without compromising passenger safety and welfare.

In the discussion which followed, and in response to questions from the Committee, the following points were made:

- (i) The reduced emissions resulting from the policy are positive, but the reduction of licensed vehicles due to the cost is concerning, as is the situation whereby the city is flooded with vehicles licensed by other local authorities with different standards;
- (j) Members supported the removal of the minimum engine size policy, given changes in technology to increase their effectivity and efficiency;
- (k) Committee Members questioned the difference in timing before a vehicle requires two enhanced MOTs per year, which is proposed as ten years for fully electric vehicles and seven for others. Members asked if it may be more appropriate to equalise this at ten years, given the investments licence-holders have made in upgrading to Euro 6 compliant vehicles. Officers advised that this is based on technical feedback and DfT guidance, but that alternative viewpoints could be considered through the consultation process;
- (l) Alongside the consultation, Licensing officers will approach the Secretary of State to consider the implications of the current Ministerial Order on the proposed changes;
- (m) Committee Members questioned whether four weeks would be enough time for a consultation, given that a lot of drivers work unsociable hours and many citizens might struggle with online access, and supported a five week consultation starting in January. Officers advised that face to face consultation would be included, as well as consultation with trade unions and operators. There is potential to extend the consultation depending on how long it takes to receive feedback from the Secretary of State;

- (n) With the consultation on reducing the number of hackney carriage licences also taking place starting in January, it will be important to make sure that communications are clear and avoid any confusion. Committee Members were urged to promote the consultations among members of the public they are in contact with as Councillors, as they are open to all members of the public;
- (o) Committee Members asked if any support was available to help with procuring compliant vehicles. When the Age and Specification Policy was first adopted, the Council did get a grant from the government to help drivers with the costs of procuring an electric vehicle, and a number of hackney carriage licence-holders were able to take advantage of that. However, the grant funding, which was introduced just before the onset of Covid-19, had strict time limits. The authority sought an extension of the time limit due to the impact of Covid-19 on the trade, but were not granted an extension. No future funding is currently anticipated, but the Council will put forward bids for any grant funding that may become available in the future to support drivers.

Resolved:

- (1) that the proposed updated Age and Specification Policy be released for public consultation for a five-week period starting in January 2024, together with the proposal to remove the requirement for a minimum engine size in the vehicle specification for both private hire vehicles and hackney carriages.**