



Nottingham City Council Regulatory and Appeals Committee

Date: Monday, 18 January 2021

Time: 10.00 am

Place: Remote - To be held remotely via Zoom -
<https://www.youtube.com/user/NottCityCouncil>

Councillors are requested to attend the above meeting to transact the following business

Director for Legal and Governance

Governance Officer: Kate Morris **Direct Dial:**

- 1 Apologies**
- 2 Declarations of Interests**
- 3 Minutes** 3 - 6
To confirm the minutes of the meeting held on 14 December 2020
- 4 Change to the Age & Specification policy - requirement for MOT inspections** 7 - 10
Report of the Director Community Protection
- 5 Exclusion of the Public**
To consider excluding the public from the meeting during consideration of the remaining item(s) in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 6 Exempt Minutes** 11 - 12
To confirm the exempt minutes of the meeting held 14 December 2020

If you need any advice on declaring an interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting

Citizens are advised that this meeting may be recorded by members of the public. Any recording or reporting on this meeting should take place in accordance with the Council's policy on recording and reporting on public meetings, which is available at www.nottinghamcity.gov.uk. Individuals intending to record the meeting are asked to notify the Governance Officer shown above in advance.

Nottingham City Council

Regulatory and Appeals Committee

Minutes of the meeting held remotely via Zoom - streamed

<https://www.youtube.com/user/NottCityCouncil> on 14 December 2020 from 10.03 am - 10.55 am

Membership

Present

Councillor Toby Neal (Chair)
Councillor Gul Nawaz Khan (Vice Chair)
Councillor Cheryl Barnard
Councillor Audrey Dinnall
Councillor Samuel Gardiner
Councillor Angela Kandola
Councillor Chantal Lee
Councillor Dave Liversidge
Councillor Sajid Mohammed
Councillor Nick Raine
Councillor Andrew Rule

Absent

Councillor Mohammed Saghir
Councillor Adele Williams

Colleagues, partners and others in attendance:

Ann Barrett - Team Leader, Legal Services
Paul Dales - Chief Environmental Health Officer
John Davis - Taxi Licensing Compliance Manager
Kate Morris - Governance Officer

18 Change in Membership

The Committee noted the following membership changes:

Councillor Audrey Dinnall replaces Councillor Shuguftah Quddoos
Councillor Maria Joannou has stepped down as Committee member

19 Apologies

Councillor Adele Williams – Council Business

20 Minutes

Subject to the addition of the word “delay” at the end of resolution 2.i the Committee/ confirmed the minutes of the meeting held on 3 February 2020 as a correct record and they were signed by the Chair.

The Committee/ Board confirmed the minutes of the meeting held on 10 February 2020 as a correct record and they were signed by the Chair.

21 Hackney Carriage Vehicle Licence - Fleet overview and Allocations Policy Development

Paul Dales, Chief Environmental Health Officer, introduced the report to the Committee looking at a Hackney Carriage vehicle licence - fleet overview and Allocations Policy development. He highlighted the following information:

- (a) The Covid 19 pandemic has impacted on the taxi trade and the wholesale replacement of the fleet required to meet the requirements of the Age and Specification Policy by 30 June 2020 that came into force on 1 January 2020;
- (b) The Council currently limits the number of Hackney Carriage licences to 420. The Age and Specification Policy which came into force on 1st January means that licence holders had until 30 June to register a compliant vehicle. Due to the downturn in business as a result of the Covid 19 pandemic many licences have either been surrendered or lapsed;
- (c) To date 177 vehicles are compliant, 48 have been refused a licence due to non-compliance and have outstanding appeals before the magistrates court, 49 license proprietors have surrendered their licence and do not wish to renew, 5 licences have been renewed on non-complainant vehicles as proof of order of a compliant vehicle has been produced but delivery delayed. This leaves potentially 238 licences which could be issued with proprietors of previously licences vehicles being given until the end of the year to decide if they wish to licence a compliant vehicle;
- (d) There is currently no defined policy for the allocation of licences and work will need to take place to deliver one. Consideration must be given to what a reasonable policy will include, looking at a waiting list, when/how and in what order the applications are received, how many licences a single person or company can apply for, priority for previously licence holders or random selection;
- (e) Whilst work on the allocation policy is undergoing, another option to consider is whether deregulation and allowing market forces to determine the number of licences issued should be considered. Section 16 of the Transport Act requires the granting of a licence unless the person charged with granting is satisfied that there is no significant unmet demand for the services of Hackney carriages;
- (f) Should the Council wish to consider continuing to restrict the number of hackney carriage vehicle licences that it issues it would have to commission a professional survey to demonstrate that there was no significant unmet demand. An unmet demand survey in the Covid-19 related business climate would be unlikely to give a true picture and the survey would need to take place when the market had returned to a new normal. This may be late 2021 / early 2022;

During discussion, the following points were raised:

- (g) A formal decision of the committee to deregulate the market would be needed if the Council chose to pursue that route;
- (h) 48 applicants whose renewal applications for non-policy compliant vehicles have been refused have appealed to the magistrates court. Due to the Covid 19

pandemic there has been a delay in court work and the next hearing dates for these cases have been set for late January 2021

- (i) There are a potential 238 licences for which could potentially become available for allocation;
- (j) The report and the decision only concerns the licensing of vehicles. Whilst many vehicle proprietors also drive their vehicles, they can choose to rent them out to appropriately licensed drivers.
- (k) Government guidelines currently recommend deregulation. Deregulation could lead to a surge in applications. This could lead to a reduced volume of business for each driver, even when market conditions return to normal. A number of core cities have restrict the number of hackney carriage licences which they issue;
- (l) If the Council takes the formal decision to deregulate a cap in the future then a limit could only be re-imposed if there was evidence to support there being no significant unmet demand;
- (m) The allocations policy will need to be developed quickly, returning in early part of the new year to ensure delays to any applications made in the meantime are not considered unreasonable;
- (n) Whilst linked, consideration of the allocations policy and deregulation are separate matters. The Council will be able to move forward with development and implementation of the allocations policy and if it is felt appropriate to consider retaining a limit on the number of hackney carriage vehicle licences to be issued a survey of unmet demand can take place at a later stage when the business market returns to a new normal;
- (o) In terms of allocations to companies there is no current policy on the number of licences they may hold;
- (p) Prior to the pandemic up to 411 licences were issued. 9 remained unissued;
- (q) Officers were asked to prepare a general report on deregulation for consideration by March 2021 looking at examples from both cities that do have caps and that do not have caps on the number of vehicle licences that are issued and addressing what might work best in Nottingham;
- (r) There will be consultation with members of the trade during the development of the Policy and before any decision on deregulation is considered;
- (s) Issuing a licence is a statutory process, if a proprietor applies and has a policy and statutorily compliant vehicle the licence must be issued. Although it is a vehicle that is licenced rather than the driver, positive action to encourage diversity in the driver cohort should be considered where appropriate.
- (t) The Committee felt the following items should be considered by Officers when drafting the Allocations Policy which should be put before the Committee by March 2021:

- How applications will be processed, including a waiting list reflecting the order of application.
- Whether priority can or ought to be given to previous licence holders to reflect that lapsed licences are likely to have been as a result of a down turn in business due to Covid 19.
- Potential restrictions on the number of hackney carriage vehicle licences Companies may hold.
- How to encourage diversity

Resolved:

- (1) To note the contents of the published report and that a Policy/Process to issue hackney carriage vehicle licences up to the limit of 420 vehicles will be developed and brought back to this Committee;**
- (2) For the report on the allocations policy to consider, and where appropriate reflect, the matters discussed in (t) above and to be brought back to Committee by the end of March 2021;**
- (3) That any new licence applications other than as replacement for a previously licensed vehicle be deferred until the allocation policy is in place;**
- (4) To ask officers to prepare a separate report considering deregulation as an issue on its own to be brought to Committee by the end of March 2021 ;**
- (5) To consult with members of the trade to take place prior to finalisation of the allocation policy and report on deregulation being put before the Committee;**

22 Exclusion of the Public

The Committee decided to exclude the public from the meeting during consideration of this/ the remaining agenda item(s) in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, as defined in Paragraph(s) 5 of Part 1 of Schedule 12A to the Act.

23 Hackney Carriage Vehicle Licence - Fleet overview and Allocations Policy Development - Exempt Appendix

The committee noted the content of the exempt appendix.

Regulatory and Appeal Committee – 18 January 2021

Title of paper:	Change to the Age & Specification policy – requirement for MOT inspections	
Director(s)/ Corporate Director(s):	Andrew Errington Director Community Protection	Wards affected: All
Report author(s) and contact details:	John Davis Taxi Licensing Compliance Manager john.davis@nottinghamcity.gov.uk Paul Dales Chief Environmental Health Officer paul.dales@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Ann Barrett, Team Leader, Legal services	
Date of consultation with Portfolio Holder(s) (if relevant)		
Relevant Council Plan Key Theme:		
Nottingham People		<input type="checkbox"/>
Living in Nottingham		<input checked="" type="checkbox"/>
Growing Nottingham		<input type="checkbox"/>
Respect for Nottingham		<input type="checkbox"/>
Serving Nottingham Better		<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):		
<p>On 18 December 2017 this Committee approved an Age & Specification Policy for Hackney Carriages and Private Hire Vehicles.</p> <p>One of the requirements of this policy is that all Hackney Carriages & Private Hire Vehicles that are over three years old from the date of first DVLA registration will be subject to six monthly MOT inspections carried out by Nottingham City Council Testers,</p> <p>Under this age, licensed vehicles are subject to 12 monthly MOT inspections carried out by Nottingham City Council Testers.</p> <p>Following the impact of Covid-19 on the Trade and the investments that are being made in purchasing compliant hackney carriages, representations have been made by hackney carriage driver's associations to increase the period for the requirement for hackney carriages for six monthly MOT inspections from three years to five years.</p>		
Recommendation(s):		
1	To amend the Council's Age & Specification Policy for Hackney Carriages and Private Hire Vehicles to require Hackney Carriages to undergo an MOT test every six months from when a vehicle is over five years old from date of first DVLA registration rather than 3.	

1 Reasons for recommendations

- 1.1 From 01 January 2020 no hackney carriage will be licensed by Nottingham City Council unless it is a minimum of a euro 6 diesel or a ZEC ULEV.
- 1.2 This has required hackney carriage proprietors to make significant financial investment to purchase compliant hackney carriages that meet the Council's Age & Specification policy.
- 1.3 The Covid-19 pandemic has reduced demand for the use of hackney carriages and could have a long lasting effect on both the daytime and night time economy.
- 1.4 Amending the requirements of the Council's policy so that six monthly MOT testing is only required once a vehicle reaches 5 years of age will not have a significant impact on vehicle safety.

2 Background (including outcomes of consultation)

- 2.1 Section 50 of the Local Government (Miscellaneous Provisions) Act 1976 ('the Act') states that 'Without prejudice to the provisions of section 68 of this Act, the proprietor of any hackney carriage or of any private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the council as they may by notice reasonably require:

Provided that a district council shall not under the provisions of this subsection require a proprietor to present the same hackney carriage or private hire vehicle for inspection and testing on more than three separate occasions during any one period of twelve months'.

- 2.2 Section 68 of the Act states 'Any authorised officer of the council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council, or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney carriage or private hire vehicle or as to the accuracy of its taximeter he may by notice in writing require the proprietor of the hackney carriage or private hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied'.
- 2.3 The cost of a yearly licence for a hackney carriage is £210 for the issue of the licence and £63 for the cost of the MOT, total cost £273. The cost for a 6 monthly licence is £105 for the issue of the licence and £63 for the cost of the MOT, total cost £168.
- 2.4 The possible savings to the proprietor of a hackney carriage by increasing the 12 monthly licence/MOT period would be £63 a year.
- 2.5 There is no standard criteria for testing hackney carriages nationally. Other Core Cities have the following requirements;

- Bristol City Council – Test every 12 months for the first 8 years and then every 6 months.
- Manchester City Council – 1 MOT for a hackney carriage under 12 months old, then every 6 months. When the vehicle reaches 7 years old, a test is carried out every 4 months.
- Liverpool City Council – A yearly MOT up to the age of 11 years and then every 6 months.
- Cardiff City Council – A test every 12 months up to a maximum age of 10 years.
- Newcastle City Council - A test every 12 months up to 2 years old and then every 6 months.
- Leicester City Council - A test every 6 months
- Derby City Council – A test every 12 months up to 5 years of age and then every 6 months.
- Transport for London – No test required for first 12 months and then every 6 months.

2.6 A recent check with the testing station has revealed that no hackney carriage between 3 and 5 years old has failed the enhanced MOT test within the last four months. It is not therefore felt that increasing the age limit from which 6 monthly MOT testing applies will have a significant impact on vehicle safety especially at the current time when usage of vehicles is likely to be reduced due to the pandemic.

3 Other options considered in making recommendations

3.1 None

4 Finance colleague comments (including implications and value for money/VAT)

4.1 This policy will affect the MOT requirements for Hackney Carriages. Following adoption of this policy, Hackney Carriages will be required to have an MOT every 12 months rather than every 6 months when the vehicle is between 3 and 5 years old.

4.2 The MOTs for Hackney Carriages are undertaken by the Council's Fleet service for a fee of £63 per MOT. The financial impact of this decision is as follows:

Current Number of Taxis between 3 and 5 years	148	Total Number of Hackney Carriage	420
MOT fee	£63	MOT fee	£63
Lost revenue to Fleet Service per annum	£9,324	Maximum lost revenue to Fleet Service per annum if / when all cars are less than 5 years	£26,460

4.3 The above table shows the financial impact of this decision on the Council's Fleet Services. The service will need to cover this lost income from new business and / or reduce costs in order to avoid an overspend position.

Maria Balchin, Senior Commercial Business Partner, 6 January 2021.

5 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)

5.1 As a licensing authority the Committees primary concern must be to protect the safety of the travelling public. As indicated in the main body of the report MOT failure rate of hackney carriage vehicles between the ages of 3 and 5 years is low and increasing the age limit at which 6 monthly testing applies would appear to be unlikely to have a significant impact on public safety especially given the Council's statutory powers to require testing and the statutory duty on proprietors to report accidents which cause damage which materially affects the safety performance or appearance of the vehicle.

The proposed change of policy would therefore appear to be within the bounds of what is lawful and reasonable

Ann Barrett, Team Leader, Legal Services, 5 January 2021

6 Equality Impact Assessment (EIA)

6.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because: This report does not include substantive changes to policy, services or functions that negatively impact differentially on any group with protected characteristics

Yes

7 List of background papers other than published works or those disclosing confidential or exempt information

7.1 None

8 Published documents referred to in compiling this report

8.1 Nottingham City Council's Age & Specification Policy relating to Hackney Carriage and Private Hire Vehicles.

Document is Restricted

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