



Nottingham City Council Regulatory and Appeals Committee

Date: Monday, 6 September 2021

Time: 10.00 am

Place: Ground Floor Committee Room - Loxley House, Station Street, NG2 3NG

Please see information at the bottom of this agenda front sheet about arrangements for ensuring Covid-safety

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

Director for Legal and Governance

Governance Officer: Jane Garrard

Direct Dial: 0115 8764315

- 1 Apologies for absence**
- 2 Membership**
To note the resignation of Councillor Chantel Lee as a member of this Committee.
- 3 Declarations of interests**
- 4 Minutes** 3 - 6
Last meeting held on 22 July 2021 (for confirmation)
- 5 Hackney Carriage Vehicle Licence - Allocations Policy** 7 - 22
Report of Director of Community Protection

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

In order to hold this meeting in as Covid-safe a way as possible, all attendees are:

- asked to maintain a sensible level of social distancing from others as far as practically possible when moving around the building and entering / leaving the meeting room. As far as possible, please remain seated and maintain distancing between seats throughout the meeting.

- strongly encouraged to wear a face covering (unless exempt) when entering and leaving the meeting room and throughout the meeting, unless you need to remove it while speaking to enable others to hear you.
- make use of the hand sanitiser available and, when moving about the building, follow signs about traffic flows, lift capacities etc.

Citizens attending meetings are asked to arrive at least 15 minutes before the start 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 at The Council House, Old Market Square, NG1
2DT on 22 July 2021 from 1.30 pm - 2.03 pm

Membership

Present

Councillor Toby Neal (Chair)
Councillor Audrey Dinnall
Councillor Samuel Gardiner
Councillor Gul Nawaz Khan
Councillor Nick Raine
Councillor Roger Steel
Councillor Salma Mumtaz

Absent

Councillor Cheryl Barnard
Councillor Chantal Lee
Councillor Angela Kandola
Councillor Dave Liversidge
Councillor Linda Woodings

Colleagues, partners and others in attendance:

Matthew Daft	- Environmental Health Officer)	
Paul Dales	- Chief Environmental Health Officer)	Resident Services
Catrin Styles	- Principal Environmental Officer)	
Mark Huckerby	- Head of Operations)	Notts County Football Club
Dave Langton	- Head of Security)	
Richard Bines	- Solicitor to the Committee)	Finance and Resources
Mark Leavesley	- Governance Officer)	

1 Apologies for absence

Councillor Barnard)	
Councillor Kandola)	other Council business
Councillor Woodings)	
Councillor Lee)	personal
Councillor Liversidge)	

2 Vice-Chair

The Chair of the Committee agreed that this item, although not included on the published agenda, could be considered as a matter of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972 as the Committee needed to appoint a Vice-Chair for the remainder of the municipal year.

Resolved to appoint Councillor Gul Khan as Vice-Chair for the remainder of the municipal year 2021/22.

3 Membership

The appointment to the Committee of Councillor Salma Mumtaz for the remainder of the municipal year 2021/22 was noted.

4 Declarations of interests

Councillor Raine declared an other registerable interest in agenda item 5 (minute 6) as a season ticket holder at Notts County Football Club.

This did not preclude him from taking part in the discussion or voting on the item.

5 Minutes

The Committee agreed the minutes of the meeting held on 18 January 2021 as a correct record and they were signed by the Chair.

6 Annual Review of General Safety Certificate: Notts County Football Club

Paul Dales, Chief Environmental Health Officer, presented the report, which detailed the main issues, electrical and fire safety management work, deviations from the Green Guide and scope of the proposed Certificate in respect of the annual review by Nottingham City Council as Certifying Authority of the General Safety Certificate for the Meadow Lane Stadium, home to Notts County Football Club for the forthcoming 2021/22 football season.

Councillors on the Committee visited Notts County Football Club sports ground to carry out an inspection, accompanied by colleagues and members of the Safety Advisory Group, including Fire, Police and Ambulance Service representatives.

During the visit, the committee noted comments by the Safety Advisory Group and representatives of the Police and Ambulance Service that following closure to traffic of the Embankment, alternative 'blue light service' routes were in use and, once fully appraised, would be incorporated into the review of major incident plans affecting the Meadow Lane Stadium and other key sporting venues around Nottingham.

Resolved to

1) note that:

- i. the previous General Safety Certificate for the Meadow Lane Stadium was replaced by the General Safety Certificate appended to this report at Annex 1 in July 2020;**
- ii. the deviations to the sixth edition of the Green Guide, as listed in Appendix 4 of the Certificate, are not considered by the Safety Advisory Group to be of such significance as to jeopardise the safety of spectators;**

2) acknowledge the appointment of Jason Turner as the Holder of the Certificate;

3) agree that the Certificate for the Meadow Lane Stadium, in the form at Annex 1 of the report, continues in place for the 2021/22 season;

4) request that the Chief Environmental Health Officer (or an appropriate Highways Officer) clarify the position in respect of alternative 'blue light

service' routes in light of the closure to traffic of the Embankment and update members of the Committee on a regular basis.

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Regulatory and Appeals Committee – 06 September 2021

Title of paper:	Hackney Carriage Vehicle Licence Allocations Policy	
Director:	Andrew Errington Director of Community Protection	Wards affected: All
Report authors and contact details:	John Davis, Taxi Licensing 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	
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>Nottingham City Council (“the Council”) currently limits the number of Hackney Carriage Vehicle (“HCV”) licences that it will issue to 420. By 30 June 2020, all licensed vehicles should have been Euro 6 Diesel or ZEC ULEV and within the relevant age range to comply with the Council’s Age and Specification Policy. However, due to the Covid-19 pandemic and a number of proprietors not wishing to move over to new vehicles a large number of HCV Vehicle licences have been surrendered or not renewed or may otherwise become available.</p> <p>On 14 December 2020 this Committee resolved that a policy be devised to deal with the allocation of those licences on receipt of application for a policy compliant vehicle and that any new HCV applications other than as a replacement for a previously licensed vehicle be deferred until the allocations policy is in place. This report brings the Policy to Committee for approval. The report also suggests that the report requested by the Committee on deregulation be deferred to allow a longer period for the market to readjust to a new normal following the Covid 19 pandemic so as to ensure that an appropriate, thorough and reasonable assessment of the market can be conducted.</p>		
Recommendations:		
1	That the ‘Hackney Carriage Vehicle Licence Allocation Policy’ attached at appendix 1 of this report be approved.	
2	That resolution 21(3) of this Committee on 14 December 2020 be rescinded with effect from 01 October 2021.	
3	That it be noted that the report on deregulation requested by Committee by resolution 21(4) of this Committee on 14 December 2020 be deferred.	

1 Reasons for recommendations

- 1.1 This report and policy was requested by this Committee's resolution 21 of 14 December 2020. The Policy proposed for adoption is believed to be fair and workable considering the matters identified by Committee and reasonable in all other respects.
- 1.2 Unfortunately, Covid 19 restrictions have continued to affect the operation of the HCV fleet on a day-to-day basis and the adverse economic effects caused by a continuing downturn in trade have remained. In the circumstances, for the reasons identified in paragraph 2.5 below, it is felt appropriate to defer consideration of such a report until the taxi trade and economy have become more stable.

2 Background (including outcomes of consultation)

2.1 The Director of Community Protection's report to Committee on 14 December 2021 indicated that a number of HCV licences had become available for various reasons following the implementation of the Council's HCV Age and Specification Policy and as a result of the Covid 19 pandemic and that an allocations policy was required to ensure that those licences were allocated fairly.

2.2 As at 16 August 2021:

- 177 vehicles are compliant with the Council's policy (figure includes the hackneys owned by the Council and the accident replacement vehicles);
- 33 vehicles have been refused a licence as they are not compliant vehicles and the proprietors have appealed against that decision to the Magistrates Court. The outcome of these appeals are still pending but could potentially mean that all of these licences also become available if the appeals are dismissed;
- 50 proprietors have informed the licensing authority that they did not wish to renew their licences and obtain policy compliant vehicles as they have either retired or moved to private hire work;
- 160 licences have either expired or were refused (and have no appeal outstanding) with no application for a policy compliant vehicle having been made.

This potentially means that the Council will have 243 licences which it could issue before reaching the limit of 420 licences which the Council set under Section 16 of the Transport Act 1985.

2.3 The policy attached at appendix 1 has been devised taking into account the matters officers were asked to consider by the December 2020 Committee resolution. This policy was put out to consultation between Monday 26 July 2021 to Sunday 22 August 2021 and writing to all current proprietors, undergoing consultation with the relevant Hackney Trade organisations, publishing the proposed policy on the Council website and through social media.

2.4 5 consultation responses have been received. The respondents have asked the Council for financial support to help with the purchase of policy compliant hackney carriages, more time in which to purchase a policy compliant hackney carriage or to delay the

reallocation of the unissued hackney carriage vehicle licences due to the effects of the pandemic of the hackney trade. By way of response it is suggested that:

- these are individual businesses responsibility for which lies with the business owner, the Council's role is as licensing authority;
- less than half of the available number of HCVs that the Council would licence are currently operating and in the absence of letting market forces determine the number of HCVs on the road it is appropriate that the Council now look to re-allocate licences to ensure appropriate provision of HCVs with in the public transport network especially as the economy is now opening up and improving and more people are coming back into the City;
- adopting the proposed Allocation Policy will still have meant that proprietors will have had 2 years since the appropriate part of the Age and Specification Policy came into effect to order a new vehicle and they will have been aware of the requirements of the Age and Specification policy for 4 years and had time to make arrangements to comply with it if they wished to remain licensed.

2.5 The report of 14 December 2020 also addressed the issue of de-regulation and requested that a further report be brought to this committee. Unfortunately, Covid 19 restrictions have continued to effect the operation of the HCV fleet on a day-to-day basis and the adverse economic effects caused by a continuing downturn in trade have remained. In the circumstances, it was not appropriate to bring a report back to Committee as initially envisaged in March 2021 considering 'deregulation' as an issue on its own.

The number of licensed and operating HCVs remains low and it is not expected that the local economy will return to pre-Covid 19 levels for a significant period of time. In light of this, it would not be reasonable to consult members of the trade on whether to conduct a survey of unmet demand to determine if the current cap on licences should remain until well into 2022.

In the circumstances it is not recommended that a consultation and report on a survey of unmet demand and the potential de-regulation of the market should be brought back to Committee before June 2022 in order to allow a longer period for the market to readjust to a new normal and ensure that an appropriate, thorough and reasonable assessment of the market can be conducted. Whilst linked, consideration of the allocations policy and deregulation are separate matters.

3 Other options considered in making recommendations

3.1 Random selection (names out of a hat) - could lead to complaints of unfair treatment.

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

4.1 There are currently circa 243 Hackney licenses that have not been renewed/issued this year due to the implications of the recent change in policy that has now been implemented. This is leading to license income for these paused licenses not currently being received until this issue of compliance is resolved with the additional issues of the pandemic and corresponding reduction in trade.

4.2 This policy will enable these licenses to either be renewed as compliant or for them to be recalled and re-issued, thereby enabling the council to get back to a full complement of Hackney Carriages. Efforts to reduce the impact in this financial year are being made and this policy will enable these licenses to be brought back into circulation, hence reducing any additional financial implications of lost income in this financial year. This should also ensure that future year Hackney Carriage licensing income is able to be achieved. This in-year reduction of licensing income has been reflected in the MTFP forecasts and needs to be monitored carefully by the Service to ensure that it is correctly accounted for during this period of transition.

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

5.1 As indicated in the report the Council currently limits the number of Hackney Carriage Vehicle licences it will issue to 420. The change in vehicle specification coupled with a loss of trade due to the impacts of the Covid 19 pandemic has meant that for the first time in many years the Council has a (potentially large) number of licences that it could issue before it reaches that number.

5.2 When devising an allocations policy, the Council needs to act fairly in administrative law terms, that is, the policy must take into account all relevant considerations, must not take into account irrelevant ones and should otherwise be within the range of decisions that a reasonable authority could take. There is no specific guidance on the form that an allocation policy should take and only limited guidance by way of case law but the proposed policy appears to be reasonable in all the circumstances

6 Strategic Assets & Property colleague comments (for decision relating to all property assets and associated infrastructure) (Area Committee reports only)

6.1 None.

7 Equality Impact Assessment (EIA)

7.1 An EIA is not required because this report does not include substantial changes to policy, services or functions that negatively impact differentially on any group with protected characteristics.

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

8.1 None

9 Published documents referred to in compiling this report

9.1 City Council Age & Specification Policy for Hackney Carriages and Private Hire Vehicles 18/12/2017.

9.2 Environment, Planning and Transport Strategy Board 13/09/2001.

9.3 Hackney Carriage Vehicle Licence – Fleet Overview and Allocation Policy Development 14/12/2020.

<https://committee.nottinghamcity.gov.uk/documents/s110915/Hackney%20Carriage%20Committee%20Report%202020%20Final.pdf>

Allocations Policy

Introduction and Aim

The aim of the policy is to introduce a process to allow proprietors of lapsed hackney carriage licences who may have been affected by Covid-19 and the downturn in business an opportunity to licence a compliant vehicle, allow interested parties to register their interest to licence a compliant hackney carriage in a fair and proportionate manner and to reissue unused hackney carriage licences.

Procedure

- a) Previous holders of HCV licences who have not replaced their vehicles with policy compliant vehicles will be contacted and asked if they wish to make an application for a policy compliant vehicle (i.e. to give an “Expression of Interest”. They will have until 30 September 2021 to indicate whether they intend to do so or by which to return their plate (if they still have it). If they give an Expression of Interest they will be placed upon a waiting list in the order that they respond and paragraph e). below will apply to them.
- b) **All** Expressions of Interest will only be accepted via the taxi.licensing@nottinghamcity.gov.uk email address.
- c) As from 01 October 2021 the Regulatory and Appeals Committee’s resolution that any new licence applications other than as replacement for a previously licensed vehicle be deferred until the allocation policy is in place will cease to have effect
- d) As from 01 October 2021 anyone who wishes to acquire a HCV licence (including anyone who has not responded within the deadline set in a) above) will be required to email the dedicated email address with an Expression of Interest in acquiring a licence for a policy compliant vehicle and requesting to go on the waiting list
- e. The Council will acknowledge the Expression of Interest in writing within 5 working days and give a period of 3 months from the date that the request was received for the applicant to provide
 - Proof of ownership of a policy compliant vehicle or
 - Proof of a non-cancellable order for a policy compliant vehicle including its proposed delivery date and
 - A fully completed application form and
 - The licence fee
- f) Applicants’ Expressions of Interest will be placed on the waiting list in the date and time order in which they are received

- g) If within 3 months of acknowledgement of an Expression of Interest, the items listed in e) above have not been provided then the applicant's name will be removed from the waiting list
- h) Applications will be determined in accordance with the Council's normal policies and procedures.
- i) In the event of a refusal of an HCV licence no licence will be issued in place of that application that takes the Council above the limit imposed under section 16 of the Transport Act until either the time for appealing against the refusal has expired or, in the event of an appeal being made, the appeal has been dismissed
- j) Initially proprietors (individuals or companies) may only apply for one HCV licence. However if licences up to the limit imposed under section 16 of the Transport Act remain available for allocation without there being anyone on the waiting list for them then further Expression(s) of Interest may be made without limitation.
- k) Once the number of licences issued reaches the limit imposed under section 16 of the Transport Act the waiting list will remain in operation for Expressions of Interest however potential applicants will not be required to provide the items listed in e) above until such time as they are notified by the Council that a licence is actually available.

Nottingham City Council

Responses to consultation

REVIEW OF AGE POLICY FOR HACKNEY CARRIAGE ALLOCATIONS POLICY

PH – Private Hire HC = Hackney Carriage NK – Not Known MoP – Member of the public

Ref no	PH, HC, NK, MoP	Summary of respondents comments	Authority's appraisal of comments	Authority's response with regard to the proposed policy
1	HC	Concern raised about the impact on the HC trade of re-issuing unused HCV licences following the Covid-19 pandemic. Vehicles having to wait longer on the ranks for customers.	The respondent is the owner of a policy compliant vehicle and is concerned that if more vehicles come back onto the fleet he will have to wait longer for customers. However, the Council is entitled to issue up to 420 licences and does not have reason to refuse to do so. The primary role of the Council is as licensing authority, the adequate provision of HCVs and the protection of the travelling public not to safeguard individual trade for those that it licences. The Allocation Policy is required to ensure the fair distribution of unused and available HC vehicle licences.	No change proposed to Policy.
2	HC	HC proprietor doesn't want unused plates to be reallocated & would like more time to buy a	Hackney Carriage proprietors have been aware of the proposed changes in the Council's Age and	No change proposed to Policy

		<p>compliant HC following the impact of Covid-19 & peoples travel habits have not returned to normal.</p>	<p>Specification Policy since 2017/18. In addition proprietors have had over 18 months since the policy became effective to make arrangements to purchase Policy compliant vehicles. The Allocation Policy is required to ensure the fair distribution of unused and available HC vehicle licences. Proprietors are being given until the end of September to go on the waiting list and then a further 3 months to either licence a compliant HC or confirm that they have ordered one. This has effectively given proprietors an additional 2 years after the relevant part of the Age and Specification Policy came into effect.</p> <p>The Council has a cap of 420 HCs which cannot be changed without an Unmet Demand Survey. Not practicable to hold one at this time as the impact of the pandemic would distort the results. However it is appropriate that the Council makes any unallocated licences available as the economy is now picking up to ensure that there is appropriate</p>	
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			provision of HCVs within the public transport system	
3	HC	<p>HC proprietor written on behalf of himself and 2 other proprietors. Supports an allocation policy with some reservations and thanks Council for giving those who have previously held licences some sort of priority</p> <ol style="list-style-type: none"> 1. Raises various comments about the background section of the Policy consultation paper 2. Felt having to buy a compliant vehicle before 30 September and make applications for policy compliant vehicles or 3. surrender their licence is unfair and unreasonable Suggests current HCV plate holders be given until 30/04/2022 to submit an application or return plates. 4. Requests previous plate holders be given priority to retain a specific plate number 5. States the waiting list 	<ol style="list-style-type: none"> 1. This section was for information during the consultation and did not form part of the proposed Policy being consulted on. It is clear that previous licences have expired and no longer exists. The person responding is under the misapprehension they would be “renewing” a licence which is not the case. The licences have expired and no longer exist and cannot therefore be renewed but previously licensed proprietors are afforded a form of “priority” under the proposed Policy 2. Expressions of interest are required by 30 September then applicants are given a further 3 months to buy or confirm order for a compliant vehicle. Previous licence holders are not being asked to 	No change proposed to Policy .

		<p>should be just for those who have returned their plates or new applicants not for proprietors who have retained their plates and who should be given priority.</p> <ol style="list-style-type: none"> 6. Highlighted a numbering mistake in the consultation document. 7. Wants proprietors who have retained their plates to be given longer than 3 months to bring on a compliant HC 8. Would like the Council to provide grants/interest free loans to help proprietor buy replacement vehicles. 	<p>surrender their licence as the licences have already expired and no longer exist. There is nothing to surrender. If an Expression of interest is not received by 30 September previous proprietors will lose the “priority” that the proposed Policy gives them to come onto the Nottingham City Fleet.</p> <ol style="list-style-type: none"> 3. This would mean a further 8 months of possibly reduced numbers of HCs operating in the City at a time when the economy is starting to re-open and increased numbers of people are returning to the City. 4. Previously proprietors have been permitted to retain their plate number and they would be allowed to if they submit an expression of interest and purchase a policy compliant vehicle. 5. One waiting list is required 	
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			<p>to manage the issues of HC plates fairly. Whilst the proposed policy does recognise the effects of the pandemic on previous proprietors and affords them limited priority in law there should be no expectation that just because a proprietor has held a licence which has expired that they should be granted a new one. The Council has allowed proprietors a considerable amount of time to adhere to its Age and specification Policy and with the proposed Allocation Policy they will have had 2 years to commit to purchasing a Policy Compliant vehicle and known about the requirement for approximately 4 years. Given the upturn in the economy it is not appropriate to extend the time for allowing them to do so any further and the Council should proceed to</p>	
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			<p>issue all available licences up to the maximum number of 420</p> <p>6. Noted -this doesn't affect the policy.</p> <p>7. Already covered in the response at 5 above</p> <p>8. the Council is not in a position to be able to offer loans to proprietors for their personal businesses or take on the associated financial risks ,it does however need to ensure that appropriate provision of safe and suitable hackney carriages are available for the travelling public To encourage uptake of ULEV hackney taxis the Council is offering up to £3,464 of financial support. This includes contributions to vehicle licence fees & MOT over 3 years; first year insurance; standard vehicle livery; meter installation and a new home charge point or charging allowance</p>	
4	HC	Would like to buy a compliant HC but requests more time due to the	Hackney Carriage proprietors have been aware of the proposed	No change proposed to Policy .

		<p>impact of the pandemic and inability to get a bank loan.</p>	<p>changes in the Council's Age and Specification Policy since 2017/18. In addition, proprietors have had over 18 months since the policy became effective to make arrangements to purchase Policy compliant vehicles. The Allocation Policy is required to ensure the fair distribution of unused and available HC vehicle licences. Proprietors are being given until the end of September to go on the waiting list and then a further 3 months to either licence a compliant HC or confirm that they have ordered one. This has effectively given proprietors an additional 2 years after the relevant part of the Age and Specification Policy came into effect.</p> <p>The Council has a cap of 420 HCs which cannot be changed without an Unmet Demand Survey. Not practicable to hold one at this time as the impact of the pandemic would distort the results. However it is appropriate that the Council makes any unallocated licences available as the economy is now picking up to</p>	
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			ensure that there is appropriate provision of HCVs within the public transport system	
5	HC	Not in favour of a reallocation policy wants the Council to help support him and other drivers & wants more time to get his finances sorted in order that he can buy a euro6/ULEV HC.	<p>Hackney Carriage proprietors have been aware of the proposed changes in the Council's Age and Specification Policy since 2017/18. In addition, proprietors have had over 18 months since the policy became effective to make arrangements to purchase Policy compliant vehicles. The Allocation Policy is required to ensure the fair distribution of unused and available HC vehicle licences. Proprietors are being given until the end of September to go on the waiting list and then a further 3 months to either licence a compliant HC or confirm that they have ordered one. This has effectively given proprietors an additional 2 years after the relevant part of the Age and Specification Policy came into effect.</p> <p>The Council has a cap of 420 HCs which cannot be changed without an Unmet Demand Survey. Not practicable to hold one at this time as the impact of</p>	. No change proposed to Policy

			<p>the pandemic would distort the results. However it is appropriate that the Council makes any unallocated licences available as the economy is now picking up to ensure that there is appropriate provision of HCVs within the public transport system</p> <p>The Council is not in a position to be able to offer loans to proprietors for their personal businesses or take on the associated financial risks ,it does however need to ensure that appropriate provision of safe and suitable hackney carriages are available for the travelling public.</p>	

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