

Regulatory and Appeals Committee - 14 December 2020

Title of paper:	Hackney Carriage Vehicle Licence – Fleet overview and Allocations Policy Development	
Director(s)/ Corporate Director(s):	Andrew Errington Director Community Protection	Wards affected: All
Report author(s) 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, Planning Environment and Leisure Solicitors	
Relevant Council Plan Key Theme:		
Nottingham People		
Living in Nottingham		X
Growing Nottingham		
Respect for Nottingham		
Serving Nottingham Better		
Summary of issues (including benefits to citizens/service users):		
<p>The Council's Age & Specification policy for Hackney Carriages and Private Hire Vehicles came into force on 01 January 2020 with the aim that all Hackney Carriages would meet the new requirements by 30 June 2020. Covid-19 has impacted on the wholesale replacement in this timescale because some drivers have chosen not to replace their vehicles due to lockdowns and shortage of work.</p> <p>This report is to recognise the impacts of Covid-19 on the trade and to provide an overview of the options to a staged approach for assessing and implementing a return to appropriate numbers of Hackney Carriages.</p> <p>An appendix to this report is exempt from publication under paragraph number 5 of Schedule 12A to the Local Government Act 1972 because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>It is not in the public interest to disclose this information because it advises on the Council's position and potential to successfully defend challenge on existing and potential policy.</p>		
Recommendation(s):		
1	To note the contents of this report and that a policy/process to issue hackney carriage vehicle licences up to the limit of 420 vehicles will need to be developed and approved.	
2	To provide an indication of the direction which it would prefer the policy to take	

3	That any new licence applications other than as a replacement for an existing vehicle be deferred until the allocations policy is in place
4	If the demand for licences exceeds the existing 420 cap then further consideration be given to conducting a survey of unmet demand at the end of the Covid-19 pandemic, given the unpredictable nature of the economic climate

1. Reasons for Recommendations

- 1.1 The Council currently limits the number of Hackney Carriage Vehicle (HCV) licences that it issues to 420. Due to the Covid 19 pandemic and the implementation of, the Council's Age & Specification policy for Hackney Carriages and Private Hire Vehicles which came into effect on 01 January 2020 a number of licences have been surrendered or not renewed. This has left a number of licences "available" and various options as to how they could be allocated once business starts to return to normal need to be considered. Committee is asked to note that work is ongoing in relation to the creation of an allocations policy and that a future report will be brought to Committee once that work is concluded
- 1.2 The Covid-19 pandemic has reduced demand and it could have a long lasting affect on both the day time and night time economy and the demand for hackney carriages.

2. Background (Including Outcomes of Consultation)

2.1 The Council currently limits the number of HCV licences it issues to 420. By 30 June 2020, all vehicles should have complied with the Councils age and vehicle specification policy and have been either Euro 6 or ZEC ULEV ; however, due to Covid-19 lockdowns and shortage of work a number of vehicle owners have chosen not to replace their vehicles and their licences have therefore lapsed .

2.2 To date;

- 177 vehicles are compliant with the Council's policy (figure includes the hackneys owned by the Council and the accident replacement vehicles).
- 48 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 next court hearing will be 18 & 25 January 2020 though these are for administrative hearings. Court work has also been delayed due to the pandemic and definitive decisions on those appeals are unlikely to start to be known until well into the new year. A majority of these proprietors are still entitled to use their existing (non policy-compliant) vehicles as Hackney Carriages pending the outcome of their appeal by operation of the law
- 49 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.
- 5 proprietors have had the licences on their non-compliant vehicles renewed in accordance with the previous Committee decision as they have confirmed orders for new vehicles, but delivery has been delayed by the pandemic.

This potentially means that the Council will have 238 licences which it could issue. Existing Proprietors have been given until the end of the year to decide if they wish to licence a compliant hackney carriage.

- 2.3 The Council does not have a defined policy in place for the issue of these 238 hackney carriage licences and work is due to take place to develop such a policy which it is hoped to be brought back to Committee.

Potential Policy

- 2.4 A fundamental element of any allocation policy is that it will confirm the requirements to comply with the Council's existing Hackney Carriage vehicle Age and Specification Policy (i.e. Euro 6 or ZEC ULEV) and the general provisions of s37 Town Police Clauses Act 1847. The policy will also need to be reasonable. Options the policy might include one or more of the following:-

- A waiting list – when and how the Council will accept applications to start one and to know what order they come in.
- How many licences can a single person/company apply for.
- Whether there should be priority given to previously licensed owners and
- A random selection process (names out of a hat)

- 2.5 As indicated above the Council currently has a limit on the number of Hackney Carriage Vehicle licences it will issue under Section 16 of the Transport Act 1985. It is suggested that whilst work is ongoing with the allocations policy work also take place to look at whether de-regulation and letting market forces determine the number of licences issued would be another option to consider.

- 2.6 Section 16 effectively states that the grant of a licence may be refused for the purpose of limiting the number of hackney carriages....but only if the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages....which is unmet “.

- 2.7 The onus is on the Council to be able to prove that there is no unmet demand and a professional survey would be required to support a continued restriction on numbers. The costs for this are likely to be in excess of £15-20,000. If the Committees preference is to continue to impose a limit on the number of licences to be issued then further work and resources will to be expended to support this stance. However an unmet demand survey in the Covid-19 related business climate would not give a true picture, and therefore the survey will need to be done once the market has returned to some form of new normal to give an indication of demand. This could be late 2021, or even 2022. A survey is **not** needed however were the Council to be minded to de-regulate and let the number of licences to be issued be determined by market forces in accordance with government guidance.

- 2.8 Committees initial views on these issues are requested to help determine the direction this policy development work should take. In the meantime should any applications for new hackney carriage vehicles (other than as replacements for vehicles that have been on the existing fleet) be received it is suggested they be deferred until the allocations policy has been produced and adopted. This is felt to be reasonable on the basis of ensuring fairness to applicants and that potential

applicants are unlikely to be unfairly prejudiced by a short delay in preparing such policy given the ongoing pandemic and restrictions.

3. Other Options Considered in Making Recommendations

3.1 None.

4. Financial Implications (Including Value For Money/VAT)

4.1 There are no direct financial implications or value for money issues arising from this report.

5. Risk Management Issues (Including Legal Implications and Crime and Disorder Act Implications)

5.1 Finance comments are contained within an exempt appendix

Advice provided by Ann Barrett, Team Leader, Planning Environment and Leisure Solicitors - 2 December 2020

6. Equality Impact Assessment

Has the equality impact been assessed?

Not needed (report does not contain proposals or financial decisions)

No - This report does not include proposals for new or changing policies, services or functions.

Yes – Equality Impact Assessment attached

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 City Council Age & Specification policy for Hackney Carriages and Private Hire Vehicles.