

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
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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2	That resolution 21(3) of this Committee on 14 December 2020 be rescinded with effect from 01 October 2021.	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>