

Regulatory & Appeals Committee – 27 November 2023

Title of paper:	Review of Age and Specification Policy Relating To Hackney Carriage And Private Hire Vehicles	
Director(s)/ Corporate Director(s):	Colin Wilderspin Interim Director – Communities	Wards affected: ALL
Report author(s) and contact details:	Nick Burns Nick.Burns@nottinghamcity.gov.uk	
Other colleagues who have provided input:	Ann Barrett, Team Leader Legal Services 0115 8764411 Ann.Barrett@nottinghamcity.gov.uk	
Date of consultation with Portfolio Holder(s) (if relevant)	N/A	
Does this report contain any information that is exempt from publication? NO		
Relevant Council Plan Outcome:		
Green, Clean and Connected Communities	<input type="checkbox"/>	
Keeping Nottingham Working	<input type="checkbox"/>	
Carbon Neutral by 2028	<input checked="" type="checkbox"/>	
Safer Nottingham	<input type="checkbox"/>	
Child-Friendly Nottingham	<input type="checkbox"/>	
Living Well in our Communities	<input type="checkbox"/>	
Keeping Nottingham Moving	<input checked="" type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Serving People Well	<input checked="" type="checkbox"/>	
Summary of issues (including benefits to citizens/service users):		
<p>The reports asks the Committee to consider proposals to amend the Council’s Age and Specification Policy Relating To Hackney Carriage And Private Hire Vehicles and to release the proposals for a 4 week consultation.</p> <p>The consultation and engagement will be with key stakeholders, including user groups, the taxi trade and members of the public.</p>		
Recommendation(s):		
1	That the proposed updated Age and Specification Policy at Appendix 1 be considered by Regulatory and Appeals Committee and released for public consultation for a 4 week period 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	

1 REASONS FOR RECOMMENDATIONS

- 1.1 Section 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 allow a council to prescribe the design and appearance of both Hackney Carriage and Private Hire vehicles with the aim to ensure the safety of the travelling passenger. The Council's current Age and Specification Policy (the Policy) was adopted on 18 December 2017 with various requirements to be implemented over a range of dates up to 1 January 2030. It is felt appropriate to review the Policy in light of various changes of circumstance since it was first adopted, to address changes in market and trade, and to reflect changes to national guidance and policy.
- 1.2 It is felt that the proposed changes will also support the Council's hackney carriage and private hire licensees in the current financial climate without adversely affecting public safety and welfare. The changes will enable the Council to attract and retain licensees ensuring that the Council remains competitive within the taxi and private hire market, licensing appropriately sized fleets which are well regulated and provide good public services.
- 1.3 The proposals will continue to provide the public with an identifiable method of transportation which is safe, comfortable and takes into account the technological improvements in a range of vehicles.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Section 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 allow a council to prescribe the design and appearance of both Hackney Carriage and Private Hire vehicles with the aim of ensuring the safety of the travelling passenger.
- 2.2 Nottingham City Council (The Council) is required to ensure that all vehicles licensed by them adhere to minimum standards which are applied in a consistent and transparent manner. The standards concerned are defined by legislation, licence conditions and byelaws adopted by the Council. Together they identify what is expected and required of the trade and help to ensure a consistent approach is taken to reach those expectations.
- 2.3 As a City, Nottingham already has a responsibility to maintain a transport system which not only facilitates the needs of its users but which also contributes to meeting the Council's wider duties and responsibilities. The Hackney Carriage and Private Hire vehicles licensed by Nottingham City Council form an important part of that system.
- 2.4 Nottingham City Council last reviewed the Policy back in 2017 and a copy is attached at Appendix 2 together with the current vehicle specifications at Appendix 3. Alongside the Council's duties as a Licensing Authority the Policy reflected the Council's ambitions to reduce the CO2 emissions and pollution levels within Nottingham City as well as aligning with central Government's own carbon neutral ambitions for 2030. At that time the Policy helped Nottingham avoid having a requirement imposed upon it by Central Government to implement a Clear Air Zone requiring certain vehicles to pay a charge to enter designated areas unless they met stringent emission standards. This was on the basis that all hackney carriages licensed in Nottingham would be required to be at least Euro 6 standard from 2020. There is no intention to depart from that requirement.
- 2.5 The recent Government announcement that restrictions on the sale of new petrol and diesel vehicles from 2030, is to be put back to 2035, perhaps reduces the urgency to move the fleet to newer vehicles in the shorter term, however at some point in the future

this will need to be readdressed within this policy. With that in mind it is proposed that implementation date for requiring any vehicle being licensed for the first time as a Hackney Carriage or Private Hire to be ZEC ULEV to be moved back from 01/01/2025 to 01/01/2027

- 2.6 Following the introduction of the Policy a number of hackney carriage proprietors chose not to move over to Euro 6 and ZEC ULEV vehicles. In some cases this resulted in appeals being lodged against the Council's decision to refuse to renew licences for non - policy compliant vehicles all of which were dismissed. This has resulted in various proprietors choosing to leave the trade or move to another Licensing Authority and overall the Council has seen a reduction in the number of Hackney Carriages it licenses from 411 to 205. There has also been a reduction in the Private Hire fleet with the Council currently licensing 1566 vehicles compared to 1850 in December of 2019.
- 2.7 The trade has submitted that it is difficult to source vehicles that meet current vehicle age requirements as the prices for new and second-hand vehicles have increased significantly and competition for them is high. There has also been a reduction in makes and models from manufacturers that has seen the competition for vehicles increase further and drive up the price of those vehicles. Since the Policy was introduced the following vehicles are no longer being manufactured, Vauxhall Vivaro, LTI TX4 (euro 6), Nissan Dynamo electric model. The only full electric Hackney Carriage being manufactured at present is the LEVC TX with no other replacement models being likely to be manufactured in the immediate future. Having considered the matter Officer's agree that the Council's Policy can present problems for proprietors seeking to source vehicles which comply with it. This may mean that licensees are likely to leave the Council to be licensed by other Authorities where they can continue to use the vehicle that they currently own for an extended period of time. In addition, some licensees cannot afford to replace their current vehicle due to the current financial crisis.
- 2.8 At the time that the Policy was introduced the market for both Hackney Carriages and Private Hire Vehicles was more extensive in terms of availability and affordability than the current market which continues to feel the impact of Brexit and the COVID-19 pandemic. From 2019 to 2023 the Council has seen a 20% reduction in vehicles licence applications (inclusive of renewals). Whilst some of this can be attributed to trade trends, anecdotal evidence also suggests that a significant number of proprietors are now choosing to license their vehicles elsewhere due our Policy requirements especially in relation to the age criteria. Often such vehicles are 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 align with our own.
- 2.9 A review of the Policy has been carried out which seeks to address the above issues whilst maintaining public safety and welfare. It is also hoped that the proposed revisions to the Policy 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 ensuring that it has the ability to inspect vehicles and take appropriate enforcement action against any driver falling short of the standards expected thereby raising public protection.
- 2.10 It is proposed that the Policy be amended as follows:
- Extend age at which Hackney Carriages and Private Hire Vehicles can first be licensed to 7 years.

- Extend the maximum age for vehicles to be licensed to 12 years for Private Hire Vehicles and 14 years for a fully electric Private Hire Vehicle.
- Extend the maximum age for vehicles to be licensed to 14 years for Hackney Carriage Vehicles and 15 years for a fully electric Hackney Carriage.
- Extend the policy to 1 enhanced MOT per year to the age of 7 and 2 enhanced MOTs per year there on after.
- Fully electric Hackney Carriages will require 1 enhanced MOT up until 10 years and 2 enhanced MOTs per year there on after.
- Fully electric Private Hire Vehicles will require 1 enhanced MOT up until 10 years of age and then 2 enhanced MOTs per year there on after.
- Remove the requirement for a minimum engine size in the specification for both private hire vehicles and hackney carriages.

2.11 The Department for Transport Taxi and Private Hire Vehicle Licensing Best practice Guidance 2010 advises that :-

Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade. Local licensing authorities should recognise that too restrictive an approach can work against the public interest – and can, indeed, have safety implications (by increasing waiting times on streets late at night or tempting people to use unlicensed vehicles)

The Department for Transport Best Practice Guidance on Taxi and Private Hire Vehicles section 32 under vehicle testing (2010) states:-

Age Limits. It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.

Whilst this draft guidance is noted the revised age limits set out in the proposed revisions to the Policy are still considered appropriate with public safety in mind when travelling within City Council licensed vehicles. Earlier in 2023 the Department for Transport carried out some consultation in regard to MOT'S and the frequency of them. Within the summary it concluded that, vehicles are more likely to accumulate significant problems as they age and at higher mileages and more likely as a consequence to fail an MOT test, and it is also the case that vehicles that do greater mileage than average are more likely to fail an MOT test. With that in mind it is considered that the approach of still implementing an age limit will ensure that vehicles licensed by the Council remain in good and roadworthy condition whilst carrying passengers in the City and further afield maintaining a good level of public safety and confidence.

2.12 It is also proposed that the requirement for a minimum engine size in the specification for both private hire vehicles and hackney carriages be removed given smaller engines are lighter and therefore more fuel efficient and less polluting. With the introduction of improved computer technology and turbocharging, smaller engines can produce as much power as a larger engine could a few years ago and are therefore better for city driving.

2.13 In summary, whilst the proposed revisions to the Policy apply less stringent requirements than those originally introduced they aim to address the practicalities around the current supply issues and financial climate whilst being consistent with Guidance and without

compromising passenger safety and welfare.

- 2.14 Local Authorities have a statutory duty to improve air quality in their area and work towards meeting Air Quality Objectives. Nottingham City Council's Local Air Quality Management Annual Status Report 2023 identified a number of locations in the City where the nitrogen dioxide (NO₂) annual mean air quality objective of 40 ug/m³ is not being met.
- 2.15 Nottingham City Council is under a Ministerial Direction to implement a number of measures, including the current taxi age policy, to reduce concentrations of NO₂ in its administrative area. The age policy was brought in to reduce the number of older taxi's operating which were Euro iV and V which it has achieved.
- 2.16 The main element of this air quality action plan, which was the retrofit of approximately 185 Euro V emission standard Nottingham City Transport buses with NO₂ abatement technology to bring them up to Euro VI emission standard and the accelerated introduction of lower NO₂ emissions Bio-gas buses, was substantially completed by February 2020. <https://www.nottinghaminsight.org.uk/d/aBFptBx>
- 2.16 The second element of the plan, Nottingham City Council's revised Hackney Carriage and Private Hire Vehicle Strategy 2017-2020 designed to transition the fleet to Euro VI compliant taxi's from January 2020, and for a minimum of 40% of the HC and 25% of the Private Hire fleet to be Ultra Low Emission Vehicles has been implemented.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Retention of the existing age policy that has seen our fleet already reduce in size by 20% and will continue to further reduce in size with the current policy. This has been discounted.

4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 4.1 The statutory fees levied for the regime are intended to cover the cost of the review of this policy.
- 4.2 Currently no financial implications as pending consultation at this stage but will need to be fully reviewed post consultation.

Sohaib Chaudhry
Senior Commercial Business Partner
15th November 2023

5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

- 5.1 Before the Council may grant a Private Hire or Hackney Carriage vehicle licence it is required to be satisfied of certain statutory criteria regarding its type, size, design, condition and safety and it is lawful for a Council to adopt policies relating to such matters. Here amendments are proposed to the Council's existing Policy to reflect relevant changes in circumstance since it was originally adopted.

- 5.2 Regard should be had to the relevant Best Practice Guidance is set out in the body of the report. Whilst there is no statutory requirement to do so the proposal at this stage is to consult with the private hire and hackney carriage trades before the changes to the existing policies are potentially adopted and this is consistent with Guidance set out in the Statutory Taxi and Private Hire Standards albeit the standards themselves offer no further guidance in relation to vehicle specifications. The risk of challenge at this stage is therefore low albeit if the changes are ultimately adopted they may be open to challenge either by way of judicial review or by a vehicle owner on appeal against the refusal of a vehicle licence. As with all policies the Council is permitted to depart from them if exceptional reasons can be demonstrated as to why the Policy should not be applied.
- 5.3 The introduction of original Age and Specification Policy formed part of the Local Plan to Improve Air Quality in Nottingham and which was approved by the Secretary of State on 20th November 2018. The Council was under Ministerial Direction to implement that Plan (which it has done) to ensure that compliance with the legal limit for Nitrogen Dioxide was achieved in the shortest possible time and by 2019 at the latest. The authority was also under a direction not to vary, revoke or suspend implementation of the local plan without the prior written consent of the Secretary of State. The Local plan highlighted that one of the most important targets in the Council's 2017 taxi strategy was that every Hackney Carriage in Nottingham should be ULEV by 2025. It is now proposed that date be put back to 2027. Whilst this was only a target and the main focus of the letter accompanying the Ministerial Direction was to introduce changes which would require all Hackney Carriages licensed in Nottingham to be at least Euro 6 in 2020 (which was achieved albeit at a later date following appeal) it is suggested that the Report Author/Corporate Director make contact with the Secretary of State's department whilst consultation is taking place on the proposed changes to ensure that there would be no perceived breach of the Ministerial Direction were the Policy to be amended as proposed.
- 5.4 Should the proposed amendments to the policy ultimately be adopted they may be open to challenge either by way of judicial review or by a vehicle owner on appeal against the refusal of a vehicle licence. As with all policies the Council is permitted to depart from them if exceptional reasons can be demonstrated as to why the Policy should not be applied.

Ann Barrett, Team Leader, Legal Services 15 November 2023

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISION RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE) (AREA COMMITTEE REPORTS ONLY)

6.1 N/A

7 EQUALITY IMPACT ASSESSMENT

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

No



An EIA is not required because this is a statutory requirement and the policy has been developed to enable fairness to all parties.

8. DATA PROTECTION IMPACT ASSESSMENT (DPIA)

- 8.1 A DPIA is not required because the policy does not have sensitive information within the policy.

9. CARBON IMPACT ASSESSMENT

- 9.1 The Carbon impact has been commented on during this report.

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 Local Government (Miscellaneous Provisions) Act 1976
Department for Transport Draft Best Practice Guidance on Taxi and Private Hire Vehicles (2010)
Department for Transport Changes to the date of the first MOT test and research into other MOT enhancements, Updated 16 February 2023