

## Regulatory & Appeals Committee 2024

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|---|--|-------------------------------------|
| <b>Title of paper:</b>  | <b>Review of Age and Specification Policy Relating to Hackney Carriage and Private Hire Vehicles</b>   |                                     |
| <b>Director(s)/ Corporate Director(s):</b>  | Mary Lester<br>Director – Residents Services   | <b>Wards affected: ALL</b>          |
| <b>Report author(s) and contact details:</b>  | Nick Burns<br><a href="mailto:Nick.burns@nottinghamcity.gov.uk">Nick.burns@nottinghamcity.gov.uk</a>   |                                     |
| <b>Other colleagues who have provided input:</b>  | Ann Barrett, Team Leader Legal Services<br>0115 8764411<br><a href="mailto:Ann.barrett@nottinghamcity.gov.uk">Ann.barrett@nottinghamcity.gov.uk</a><br><br>Pete Mitchell, Head of Environmental Health and Public Protection<br><a href="mailto:Pete.mitchell@nottinghamcity.gov.uk">Pete.mitchell@nottinghamcity.gov.uk</a> |                                     |
| <b>Date of consultation with Portfolio Holder(s) (if relevant)</b>  | N/A  |                                     |
| <b>Relevant Council Plan Key Theme:</b>   |  |                                     |
| Strategic Regeneration and Development  |  | <input checked="" type="checkbox"/> |
| Schools   |  | <input type="checkbox"/>            |
| Planning and Housing  |  | <input type="checkbox"/>            |
| Community Services  |  | <input type="checkbox"/>            |
| Energy, Sustainability and Customer   |  | <input type="checkbox"/>            |
| Jobs, Growth and Transport  |  | <input type="checkbox"/>            |
| Adults, Health and Community Sector   |  | <input type="checkbox"/>            |
| Children, Early Intervention and Early Years  |  | <input type="checkbox"/>            |
| Leisure and Culture   |  | <input checked="" type="checkbox"/> |
| Resources and Neighbourhood Regeneration  |  | <input type="checkbox"/>            |
| <b>Summary of issues (including benefits to citizens/service users):</b>  |  |                                     |
| <p>On 27 November 2023 this Committee authorised a public consultation on proposed changes to the Council’s Age and Specification Policy Relating to Hackney Carriage and Private Hire Vehicles 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. This report asks members to consider the responses to consultation together with any amendments to the proposals made as a result of them and to adopt the policy attached at Appendix 1.</p> |  |                                     |
| <b>Recommendation(s):</b>   |  |                                     |
| <b>1</b>  | That the Hackney Carriage and Private Hire Age & Specifications Policy at Appendix 1 be approved to take effect from 1 April 2024.   |                                     |
| <b>2</b>  | That the requirement for a minimum engine size specified in both the private hire and hackney carriages vehicle specifications be removed with effect from 1 April 2024.   |                                     |

## **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 (HC) and Private Hire Vehicles (PHV) with the aim to ensure the safety of the travelling passenger. The Council's current Age and Specification Policy (the Current Policy) was adopted on 18 December 2017 with various requirements to be implemented over a range of dates up to 1 January 2030.
- 1.2 It is felt appropriate to review the Current 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 that are impacting on the taxi trade as a whole. The national government approach has since also changed, delaying the ban on the sale of petrol and diesel cars until 2035.
- 1.3 It is felt that the proposed changes will also support the Council's HC and PHV licensees in the current financial climate without adversely affecting public safety and welfare and will enable the Council to attract and retain licensees. This will ensure that the Council remains competitive within the HC and PH market licensing appropriately sized fleets which are well regulated and provide good public services.
- 1.4 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 HC and PHVs 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 HC and PHVs licensed by Nottingham City Council form an important part of that system.
- 2.4 The proposals for change were first raised at this Committee on 27 November 2023 (the November Report) and the Committee approved the release of the proposed policy (the Consultation Policy) for a 5-week period of consultation which commenced on 1 January 2024 and closed at midnight on 5 February 2024. The consultation documents were circulated to all drivers, vehicles owners, private hire operators and also relevant trade representatives. The November Report (including the Consultation Policy) can be located using the link below,

<https://committee.nottinghamcity.gov.uk/mgChooseDocPack.aspx?ID=10399>

- 2.5 As a result of the approval for the proposals to be released for consultation, Pete Mitchell has approached the Secretary Of State/Department for Environment, Food and Rural Affairs (DEFRA) for comment on the proposals with the Council still being under a Ministerial Direction in relation to Air Quality attached in Appendix 2. No response has of yet been received.
- 2.6 The main element of the local air quality local plan referred to in the Direction, 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. This was substantially completed by February 2020.
- 2.7 The second element of the local plan, was to implement an updated taxi licensing policy (as set out in the age and emission policy). This was achieved following the adoption and implementation of the Current Policy and the Hackney Carriage and Private Hire Vehicle Strategy 2017-2020 which were designed to transition the fleet to Euro VI compliant hackney carriages from January 2020, and for a minimum of 40% of the HC and 25% of the PH fleet to be Ultra Low Emission Vehicles by 2020. Notwithstanding this it is now felt to be both appropriate and necessary to revise the Current Policy for the reasons outlined in the November report namely:
- difficulties in sourcing new and second-hand vehicles which meet the Current Policy (including a reduction in the number of models of vehicle being manufactured)
  - increased prices for such vehicles
  - impacts of Covid and Brexit
  - a reduction in the number of licence applications received by the Council and reduced size of fleets

As indicated in the November Report it was felt that the Current Policy could be revised without compromising passenger safety or standards. The aims of the Ministerial Direction have been met as all of the current Hackney carriage fleet is a minimum of Euro VI and that requirement will remain. Currently 25% of the Hackney Carriage and 66% of the Private Hire fleet are Ultra Low Emission Vehicles.

- 2.8 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 the requirement for any vehicle being licensed for the first time as a HC or PHV to be ZEC ULEV be put back from 01/01/2025 to 01/01/2030
- 2.9 Responses to the consultation were received from 7 individuals and 2 trade representatives, (one from the App Drivers and Couriers Union (ADCU) counter signed by 10 licensed drivers, and the other from Nottingham Licensed Taxi Owners Driver Association (NLTOLDA), with 145 signatures in support and also recommending further changes to the policy.) A summary of the consultation responses is attached at Appendix 3.
- 2.10 A further review of the Current Policy has been carried out by officers taking into consideration the recently adopted Department for Transport Guidance November 2023, and also considering the consultation responses. As a result of this review some

revisions have been made to the Policy which seek to address concerns raised whilst continuing to maintain public safety and welfare.

2.11 The consultation responses were generally supportive of the changes proposed by the Council and encouraged it to go further. Whilst the Council does not control the market, the responses tend to indicate that the proposed changes may encourage proprietors to return or apply to the Council as Licensing Authority so that the majority of the vehicles trading in the City are licensed by the Council. This will ensure that the Council remains the primary body responsible for the enforcement of vehicle and driver standards of those vehicles operating in the City thereby raising public protection and ensuring that vehicles are operating to locally adopted standards.

2.12 Following on from this further review it is proposed that the Current Policy be further amended as follows:

- Extend age at which Hackney Carriages and Private Hire Vehicles can first be licensed to 10 years (from 4 years for a PHV and 6 for a HC in the Current Policy and 7 in the Consultation Policy).
- Extend the maximum age for vehicles to be licensed to 15 years for Private Hire Vehicles. (from 10 in the Current Policy and 12 in the Consultation Policy)
- Extend the maximum age for vehicles to be licensed to 15 years for Hackney Carriage Vehicles (from 10 in the Current Policy and 14 in the Consultation Policy)
- Extend the policy to 1 enhanced MOT per year to the age of 10 (from 3 in the Current Policy and 7 in the Consultation Policy) with vehicles requiring 2 enhanced MOT'S per year thereafter.
- Fully electric Hackney Carriages will require 1 enhanced MOT up until 12 years (from 10 in the Consultation Policy) and 2 enhanced MOT's per year thereafter.
- Fully electric Private Hire Vehicles will require 1 enhanced MOT up until the age of 12 (from 10 in the Consultation Policy) and then 2 enhanced MOT's per year thereafter.

2.13 The Department for Transport Taxi and Private Hire Vehicle Licensing Best practice Guidance 2023 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)*

It also states:-

*The setting of an arbitrary age limit may be inappropriate, counterproductive and result in higher costs to the trade and ultimately passengers. For example, a maximum age for first licensing may have adverse unintended consequences. A 5-year-old used electric vehicle will produce less emissions than a new Euro 6 diesel or petrol car – enabling the trade to make use of previously owned vehicles will assist it to transition more rapidly to zero emission vehicles and improve air quality.*

and

*The legal requirement is that private hire vehicles which are at least three years old, and all taxis, must be subject to an MOT test or its equivalent at least once a year. Local authorities may obtain a designation from the Secretary of State for Transport to issue 'Certificates of Compliance'. The requirements of the test normally include those in an MOT test but may also include another inspection by a licensing officer to ensure the vehicle meets the relevant local requirements for issuing a taxi or private hire vehicle licence e.g. cleanliness of the vehicle inside and outside, correct plates displayed etc.*

Whilst 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 licensed vehicles. In the Department for Transport's 2023 consultation in regards to MOTs it had concluded within its summary 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 MOT test". With that in mind it is considered that the approach of maintaining an age limit will ensure that vehicles licensed by Nottingham City Council remain in excellent condition whilst carrying passengers in Nottingham City and further afield maintaining a good level of public safety and confidence. The Policy proposed in this report is less stringent than that currently applied and aims to address current restrictions on the supply of Council licensed HCs and PHVs and the amendments are therefore felt to be consistent with the spirit of the 2023 Guidance which can be found here:-.

<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance/taxi-and-private-hire-vehicle-licensing-best-practice-guidance-for-licensing-authorities-in-england#vehicle-licensing>

- 2.14 Aside from age and MOT requirements the other main purpose of the consultation related to remove the requirement for a minimum engine size in both the HC and PHV specifications. This is primarily on the basis that a smaller engine is lighter and therefore more fuel efficient and less polluting and with the introduction of improved computer technology and turbocharging, they can produce as much power as a larger engine could a few years ago and are therefore better for city driving. Once again consultation responses were generally in support of this proposal and it is now recommended to the Committee

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 Retention of the Current Policy. - This has been discounted as it does not address the issues of supply currently being experienced by proprietors nor the effects of the increased costs of vehicles all of which are impacting on the size of the Council's current fleet. This is encouraging an increased amount of vehicles licensed by other authorities to operate within the City, with the Council not being able to undertake the testing of these vehicles potentially having a detrimental effect on the quality and safety of vehicles carrying passengers in Nottingham City boundaries.

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

- 4.1 This reports seeks the recommendations based on the responses to the consultation around the proposed changes to the council's age and specification policy relating to Hackney Carriages and Private Hire Vehicles and the removal of the minimum engine size specification to take effect from 1st April 2024.
- 4.2 These changes could have a favourable effect in relation to the number of taxi license applications received by Nottingham City Council, thereby ensuring the standards set in the policy are met and improving waiting times and public safety.
- 4.3 There should be minimal financial implications in the amending of the policies, with any costs and subsequent increases or decreases in the number of licenses within the service having no expected impact on the MTFP.

Susan Turner – Senior Commercial Business Partner 29/02/2024

## **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. Regard should also be had to the relevant Best Practice Guidance is set out in the body of the report.
- 5.2 The introduction of the Current Policy formed part of the Local Plan to Improve Air Quality in Nottingham and which was approved by the Secretary of State on 20<sup>th</sup> 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 2030. The Council remains under the Ministerial direction and whilst it is noted that the Minster has been approached in relation to the Council's proposal to change the Current Policy and failed to respond there is a risk that changing the Policy could potentially have an impact on air quality considerations and measures especially should the Minister perceive there to have been a breach of the Ministerial Direction.
- 5.3 As with the adoption of any policy it will potentially be open to challenge either by way of judicial review on public law grounds, or by a vehicle owner on appeal against the refusal of a vehicle licence.

Ann Barrett, Team Leader Legal Services 1/3/2024

## **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

**10 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

10.1 Local Government (Miscellaneous Provisions) Act 1976  
Department for Transport Draft Best Practice Guidance on Taxi and Private Hire Vehicles (2022)  
Department for Transport Changes to the date of the first MOT test and research into other MOT enhancements, Updated 16 February 2023