REPORT TO: LICENSING COMMITTEE  
DATE: 24 MARCH 2015  
TITLE: EMISSION CONDITION FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES  
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RECOMMENDED that:

A Licensing Committee Recommendsto Councilthat the policy condition requiring all Hackney Carriage and private hire vehicles licensed for the first time to comply with Euro 3 emissions standards, is amended such that the words ‘to comply with Euro 3 standards’ be replaced with the words “to comply with MoT test standards appropriate to Euro 3 compliant vehicles”.

BACKGROUND

1. On 21 February 2011 Licensing Committee adopted policy requiring in effect that to be licensed all Hackney Carriage and Private Hire Vehicles must comply with Euro 3 emissions standard or better, by 1 April 2014.

2. Vehicles constructed after the year 2002 have been required to be Euro 3 compliant. Most Private Hire Vehicles are widely available mass-market vehicles and are changed relatively frequently. Hackney Carriages in Harlow must be purpose-built vehicles that are relatively expensive to replace, and which typically have a much longer working life.

3. Emissions control kits designed to be fitted to older designs of Hackney Carriage vehicles and intended to make them compliant with Euro 3 emissions standards have been marketed. Fitting such a kit can offer a more economical solution than replacement with a newer vehicle for proprietors of older Hackney Carriages.

4. It has come to the Council’s attention that second-hand examples of such emissions control kits are now available and are offered at lower costs than new kits.
ISSUES

5. The Euro 3 standard for diesel vehicles sets a limit on the concentrations of particulate matter (smoke), Nitrogen Oxides (NOx) and Hydrocarbons (for example unburnt fuel) in the exhaust.

6. Vehicles presented for licensing are currently emissions-tested to the MoT test standard appropriate for Euro 3-vehicles. This test measures the opacity of the vehicle exhaust to estimate the concentration of particulate matter. It does not directly measure particulate matter. It does not measure NOx or hydrocarbons.

7. Suppliers of emissions control kits are able to show that their products when fitted can meet specified standards by having objective testing for all of the relevant emissions carried out, and can provide a warranty. Such testing is however much more specialised than for example standard MoT testing, and only specialised vehicle research and testing facilities such as those catering to vehicle manufacturers are likely to be suitably equipped to carry it out; it is likely to cost tens of thousands of pounds to have such tests performed.

8. It does not appear to be economically practicable for those fitting second hand emissions kits to have them objectively tested; no warranty traceable to objective standards is offered. Nor is it practicable for the Council to require individual vehicles to be tested for the full range of emissions covered by the Euro 3 standard.

9. The Council cannot at this time positively demonstrate that Hackney Carriage vehicles fitted with second-hand emissions reduction kits meet all of the requirements of the Euro 3 emissions standard, and so meet all the requirements of adopted policy.

10. Suppliers of new emissions control kits may take the view that it is not reasonable for the Council to adopt such policy and not be in a position to demonstrate that it is being complied with. This creates a risk of legal challenge.

11. The principal justification for an emissions control policy is to address air quality issues. In Harlow there is currently no evidence arising from ongoing statutory Review and Assessment of Air Quality that national health-based air quality standards are likely to be breached.

12. Economic circumstances have remained difficult for a protracted period since the policy was introduced: solutions such as buying newer vehicles or fitting new emissions control kits at a future point which may have appeared reasonable at the time the policy was introduced, may with the benefit of
current knowledge now appear less proportionate to the benefits of the policy.

13. Hackney Carriage proprietors aggrieved by refusal of a vehicle licence are entitled to appeal to the Courts. In the absence of evidence of risk to Air Quality standards, it might be difficult for the Council to defend an appeal.

14. In the circumstance the Council may accept the risk; amend its policy; or amend its approach to enforcement of the existing policy. The principal issues affecting these options are set out below.

**OPTIONS**

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<tr>
<th>Option</th>
<th>Issues</th>
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<tr>
<td>1. No change</td>
<td>No additional costs to Hackney Carriage trade. Risk of legal challenge by suppliers of emissions control kits.</td>
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<tr>
<td>2. Amend policy such that all vehicles must pass the MoT test applicable to Euro 3 vehicles on compliance testing.</td>
<td>No additional costs to Hackney Carriage trade. Only particulate emissions will be tested by way of an opacity test.</td>
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<td>3. Amend approach to enforcement by requiring that only emission control kits individually traceable by supplier’s certificate to objective performance testing against Euro 3 or higher standards be accepted.</td>
<td>It appears very unlikely that second-hand emission control kits will meet this criterion. Only new kits in their warranty period are then likely to be approved. Once out of warranty period, kits would have to be replaced with new equipment. The Council would have some evidence that NOx and hydrocarbon limits of Euro 3 standards are being met. There will be substantial additional cost to Hackney Carriage proprietors. Risk of appeal.</td>
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15. Option 2 appears to offer the best balance of benefit and risk.

**IMPLICATIONS**

**Place (includes Sustainability)**

Contained within the body of the report.

Author: Graeme Bloomer, Head of Place

**Finance (Includes ICT)**

None specific.

Author: Simon Freeman, Head of Finance
The Local Government (Miscellaneous Provisions) Act 1976, Section 47(1) states that a District Council may attach to the grant of a licence of a Hackney Carriage under the Act of 1847 such conditions as the District Council may consider reasonably necessary. Section 47(2) states that without prejudice to the generality of the foregoing sub-section, a District Council may require any Hackney Carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a Hackney Carriage. Section 47(3) states that any person aggrieved by any conditions attached to such a licence may appeal to a Magistrate’s Court. The Council by amending its policy as recommended in the report, would be reducing this risk of appeal.

Author: Brian Keane, Interim Head of Governance

Opacity: the extent to which light transmission is obstructed. In exhaust emissions testing, the extent to which particles in the exhaust (“smoke”) block light transmission, that is the opacity of the exhaust, is related to the particle concentration, so this is used as an indirect measure of that concentration.