

REPORT TO: LICENSING COMMITTEE

DATE: 16 SEPTEMBER 2014

TITLE: HACKNEY CARRIAGE AGE-RELATED CONDITION

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RECOMMENDED that Cabinet be recommended that the existing policy requiring certain licensees to replace their vehicles with completely new ones, once their existing Hackney Carriage vehicles have reached 12 years old, be discontinued.

BACKGROUND

1. The Local Government (Miscellaneous Provisions) Act 1976 s47 allows Councils to impose conditions on hackney carriage vehicle licences, however conditions must be reasonably necessary and are subject to appeal through the courts.
2. In 2004 the Council adopted a policy requiring new licensees to provide a completely new vehicle when the existing licensed vehicle reached 12 years of age. There are currently nine licenced vehicles to which this condition applies.
3. Licences already in place if renewed without lapse, were not affected by this condition. These licences still permit licensees to use older vehicles and to replace them with second hand vehicles should they choose to do so. There are currently 54 licences of this type.
4. Licences may be transferred to a suitable new holder on application by the Licensee.

ISSUES/PROPOSALS

5. The first of the nine vehicles to which this condition applies is due to be replaced in early 2016.
6. In view of this, the Licensing Team has considered the current guidance and

has sought the views of representatives of the Hackney Carriage trade.

7. Current Government guidance, (Taxi and Private Hire Vehicle Licensing: Best Practice Guidance: Department for Transport, March 2010; “the guidance”) was issued after the current policy was put into place.
8. The guidance cautions Councils against unduly stringent licensing conditions and states that they should consider whether the costs imposed by licensing policies are really commensurate with the benefits that they are meant to achieve.
9. The guidance states in relation to age-related conditions that “It is perfectly possible for an older vehicle to be in good condition”. So the setting of an age limit beyond which a Council will not license vehicles may be arbitrary and inappropriate.
10. The current policy was adopted to improve the quality of the vehicle fleet, thus improving the experience of the travelling public.
11. While it is likely that newer vehicles will have been built to superior standards and in better repair, all licensed vehicles are subject to regular inspection against standards specifically intended to ensure that vehicles are safe and suitable to be licenced. Such standards and inspection, which are applicable to all vehicles, should be sufficient to achieve the licensing objectives.
12. A purely age related condition appears to be contrary to the guidance
13. A completely new Hackney Carriage vehicle is considerably more expensive to buy than a typical new family saloon car, for example. Economic circumstances have changed considerably since the condition was adopted.
14. Faced with the requirement to buy a new vehicle, when one that is a few years old will be considerably cheaper, will meet Council standards, and will be newer than much of the licensed fleet, licensees are likely to consider the option of appeal, on the grounds that the condition is unreasonable.
15. In view of the guidance, there is reason to suppose that the Council may lose such an appeal, in which case it would be likely to have to meet both its own and the appellant’s legal costs. Losing an appeal would also have an adverse reputational impact.
16. Trade representatives have advised that different circumstances apply to individual licensees and so complete consensus is unlikely. Although the trade had supported the condition when introduced, the economic circumstances, the composition of the trade, and the guidance have all since changed. The trade representatives felt that there was a reasonable prospect

of an appeal being successful, and that on balance, retention of the condition should not be supported.

17. The Licensing Team is in the process of reviewing vehicle licensing conditions to improve clarity and transparency and this provides the opportunity, should it be necessary, to ensure that standards across the fleet remain appropriate.
18. In the light of the considerations set out above, it is recommended that the policy requiring some licensees to provide new replacements for vehicles when they reached 12 years of age is discontinued.

IMPLICATIONS

Regeneration (includes Sustainability)

None Specific.

Author: **Graeme Bloomer, Head of Regeneration**

Finance (Includes ICT)

None Specific.

Author: **Simon Freeman, Head of Finance**

Housing

None specific.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

Vulnerable members of the community can be more reliant than others on an appropriate choice of safe and affordable public transport, and ready access to public transport can reduce antisocial behaviour when customers are leaving entertainment venues. It is therefore important to maintain a careful balance between the costs and benefits of licensing conditions intended to address availability and safety.

Author: **Michael Pitt Environment and Licensing Manager for Graham Branchett Chief Operating Officer**

Governance (includes HR)

By following the Best Practice Guidance issued in March 2010 and removing this policy requirement the Council is mitigating against challenges.

Author: **Brian Keane, Interim Head of Governance**

Background Papers

[These are papers referred to in the preparation of the report that are not attached as appendices but that are available for public or Councillor study.]

Taxi and Private Hire Vehicle Licensing: Best Practice Guidance: Department for Transport, March 2010. <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>