

**To:** General Purposes Licensing Committee

**Date:** 14 September 2014

**Report of:** Head of Community Services

**Title of Report:** Hackney Carriage & Private Hire Vehicles: Proposals to amend the criteria applicable to Hackney Carriage and Private Hire Vehicles licensed by the Authority.

## Summary and Recommendations

**Purpose of report:** To seek the implementation of a variety of criteria applicable to Hackney Carriage and Private Hire Vehicles in the City in order to promote reductions in pollutants and to reduce the number of vehicles licensed by other Authorities from working within the City to the detriment of those licensed locally, the Authority and the general public.

**Report Approved by:**

**Finance:** Paul Swaffield

**Legal:** Daniel Smith

**Policy Framework:** Vibrant Sustainable Economy  
Cleaner, Greener Oxford

**Recommendation(s):** that the General Purposes Licensing Committee resolves to:

1. Recommend Council to resolve to:
  - a) approve the proposed amendments to Hackney Carriage and Private Hire Vehicle "Conditions of Fitness" as detailed within this report;
  - b) revise the Vehicle Age Limits criteria due to come into force on 1 January 2016;
  - c) approve the proposal to offer a discounted licence fee to be applicable to vehicles that fall with Vehicle Excise Bands A, B and C (deemed to be low emission vehicles).

**Additional Papers:**

- Appendix 1:** Table of Local Comparisons
- Appendix 2:** Vehicle Excise Duty Bands
- Appendix 3:** Internal Private Hire licence plate
- Appendix 4:** Internal Hackney Carriage licence plate
- Appendix 5:** Draft Revised Hackney Carriage & Private Hire Vehicle Application Pack

## Introduction

1. On 5 September 2013, the General Purposes Licensing Committee approved the implementation of a new standard of licensing criteria for Hackney Carriage and Private Hire vehicles. The Committee's recommendation was subsequently adopted by Council on 30 September 2013 for commencement on 1 January 2016.
2. In summary, the criteria adopted placed an upper age limit on vehicles licensed by the Authority, with the purpose of developing a consistent and long lasting policy that would lead to a continual evolution of the licensed fleet, upholding both objectives of driver/public safety and progressively lower emission levels by taking advantage of ever improving vehicle safety and emission technology.
3. When developing the Vehicle Age Limit criteria regard was had to the recommendations of the Law Commission in its "Review of Taxi and Private Hire Services", ensuring that Oxford was well positioned to absorb such recommendations when they came into law, as the intention of the Law Commission's "Review" was to create national standards to be adopted by all Authorities.
4. The strategies and policies in place locally were regarded by the Law Commission as being very close to the proposals that they were in the process of drafting and recommending to the Secretary of State.
5. The Law Commission's proposals have not been progressed beyond a draft Taxi and Private Hire Services Bill. This Bill has not been listed within this year's Queen's Speech as a matter for consideration.
6. The resultant effect has been that other Authorities whose taxi licensing criteria is less robust and whose licence fees are significantly lower have not been required to address these matters. This has had a negative impact on other Authorities who have more stringent approaches.
7. Shortly after the Council adopted the above Vehicle Age Criteria, a court ruling established that it was not illegal for a Hackney Carriage vehicle to be licensed by one Authority yet undertake Private Hire work provided to it by a Private Hire Operator licensed by another Authority.
8. Whilst delivering this ruling, the Judge also stated that it was clearly not the intention of the legislation, (Local Government Miscellaneous Provisions Act 1976), that a person should seek to obtain a licence from an Authority within which that person had no intention to carry out the majority of his/her duties.
9. The effect of this court decision, and the inertia of the draft Taxi and Private Hire Services Bill, have led to many urban areas witnessing a

significant reduction in the number of Private Hire drivers and vehicles licences being issued.

10. These same areas have found themselves facing an influx of Hackney Carriage Vehicles licensed by neighbouring authorities carrying out Private Hire work given to them by their licensed Private Hire Operators. These areas have no powers to regulate these vehicles or drivers, many of whom had previously been licensed as Private Hire with them.
11. In order to redress the above mentioned issues, this report details the challenges facing the Authority and makes recommendations to address these challenges. When formulating the proposed solutions, discussions were held with the licensed Trade, neighbouring Authorities, and Authorities who had also experienced the same issues.
12. The proposals put forward in this report help to address the migration of Private Hire Vehicles to neighbouring areas, and will remove some of the incentives for drivers to register with a neighbouring authority. This will help stabilise and raise the proportion of transport services provided locally being undertaken by drivers and vehicles registered and regulated by this Authority.

## **Background**

13. On 30 September 2013 Council suspended the Euro Emission vehicle age limit criteria that was in force, and adopted the following vehicle age criteria to take effect from 1 January 2016:
  - **New Vehicle Licences:** Any vehicle presented for licensing must be less than 5 years of age from the date of its first registration.
  - **Renewal of existing Vehicle Licences:**
    - Hackney Carriage:** From 1 January 2016, no vehicle shall be re-licensed if it is 12 years of age or more from the date of its first registration.
    - Private Hire:** From 1 January 2016 no vehicle shall be re-licensed if it is 10 years of age or more from the date of its first registration.
  - **Certificate of Compliance Testing:** All vehicles of 12 years of age or more will be required to undertake 3 such Tests annually.
14. However, the lack of progression of the Taxi and Private Hire Services Bill, coupled with the court decision previously mentioned, allowed vehicle owners to prolong the lifespan of their vehicle and avoid the cost of having to replace their vehicle by licensing the vehicle as a Hackney Carriage at a neighbouring authority with no such age limit.

15. Many of the larger Private Hire Operators nationally seized the opportunity to broaden their business operations by offering work in the cities to those drivers and vehicles licensed elsewhere. In return those vehicles advertise the services of the Operators on the coachwork of the vehicles to be noticed by the public when carrying out work within the district that the vehicles had obtained the licence.
16. At present Officers witness approximately 300 Hackney Carriage vehicles not licensed by this Authority plying their trade in the city, predominantly on Friday and Saturday nights, but also a significant number do so throughout the week both during the daytime and at night.
17. It should be noted that the Operators earn their income via the weekly rent they charge to the vehicle owners, who are then allocated work by the Operator. The more vehicles an Operator has available, the higher the income the Operator receives.
18. The Committee is also reminded that the law requires the driver of a licensed vehicle to hold the appropriate licence with the same Authority that licences the vehicle. As such the more vehicles that cease to be licensed by this Authority, so the proportion of drivers that hold a licence with this Authority decreases. Many vehicles are driven by more than one driver.

### **Why Be Licensed By A Neighbouring District?**

19. The Committee is referred to the attached **Appendix 1**, which provides a local comparison of the Oxfordshire Authorities. Members will note from this document where and why it may be attractive to seek to obtain a Hackney Carriage vehicle licence elsewhere (and in turn to drive the vehicle, the drivers must obtain the Hackney Carriage driver licence from that Authority).
20. Listed below are the main reasons for vehicle owners to seek a licence elsewhere as Hackney Carriage:
  - **No vehicle age limits in place.** Individual owner / drivers can retain their vehicle in service for as long as they choose, thus removing the need to finance a newer vehicle.
  - **No restriction on the number and type of Hackney Carriages.** Oxford operates a regulated number of Hackney Carriage vehicle licences (currently set at 107), and such vehicles must be purpose-built nationally recognised Hackney Carriages (i.e. London style Black Cabs). This limits the choice of work to those seeking to licence a vehicle to being solely Private Hire, and as such the vehicle must conform to the criteria applicable locally to Private Hire.
  - **Reduced licensed fee for a “green” vehicle.** Low emission vehicle licence fees are significantly cheaper than our Private Hire vehicle licence fee. When combined with other factors listed below

can be £262 cheaper than a new Private Hire vehicle licence with this Authority, and subsequently £182 per year cheaper thereafter.

- **No requirement for external or internal Council livery.** The Council required front door stickers and internal sticker are deemed to make a vehicle appear to be “lower quality”, and as such those vehicles do not get allocated work that requires a more professional and discreet looking vehicle to be provided. In addition, the Council stickers are affixed by adhesive to the vehicles, which when removed cause damage, and for those owners who have acquired vehicles of a more prestigious nature, the Council stickers are deemed to detract from the vehicles aesthetics. Furthermore, there are costs to the vehicle owners in acquiring these stickers. As such a vehicle with less livery affixed to it has a wider selection of bookings allocated to it, in turn allowing the drivers to maximise their potential income.
  - **Lower frequency for Certificate of Compliance Tests for vehicles aged less than three years.** Our policy requires these vehicles undergo two such Tests per annum. Again this increases the costs placed on vehicle owners.
  - **No restriction on the colour of multi-people carriers.** Our policy does not allow people carriers painted black to operate as Private Hire on the grounds that the public may confuse the vehicle with a Hackney Carriage. Many black cabs licensed in Oxford have advertising livery or are another colour, and a number of Black Cabs licensed elsewhere are working through our Private Hire Operators. The onus is on the driver to not commit the offence of “plying for hire”, not on the public to not approach such a vehicle. Our Test Purchase Operations and other enforcement activity clearly demonstrate that irrespective of what advisory livery is affixed to vehicles, the public do not regard such information as relevant.
21. When the above factors are combined, and considering that it is perfectly legal for these vehicles to undertake work in the city, it is reasonable to conclude that the Trade will make a business decision and seek to obtain a licence that is less costly and less restrictive.
  22. Discussions with the local Trade and other Licensing Authorities who have experienced similar issues we are experiencing in Oxford have confirmed the above contributing factors.
  23. The local Private Hire Operators have provided feedback to the Licensing Manager when discussing the above issues, and have not increased the number of vehicles that they own being licensed elsewhere, despite this number being approximately 80 in total.
  24. However, the Authority must consider solutions that not only benefit the Operators fleets and the Authority, but also the individual vehicle owner for whom the costs associated with obtaining a licence in this economic

climate will lead him/her to consider what options may be available to ensure that such costs are minimised and profits are maximised.

### Challenges Faced by the Licensing Authority

25. The Authority faces the following challenges when seeking to address the issues detailed within this report.
- Reduction in revenue;
  - Inability to control standards and enforce against drivers and vehicles licensed elsewhere;
  - Reputational risk to this Authority should such drivers and vehicles be considered “unsafe” or provide poor service to those who live in, work in, or visit the City.
  - Safeguarding Children, Young Persons and Vulnerable Adults
26. The report author has provided a brief explanation to the Committee with regard to each bullet-point listed above, so as to assist the Committee with its considerations.

### Reduction in Revenue

27. The following tables illustrate the financial impact on the Licensing Authority

**Table 1: Licences Issued**

| Year    | Hackney Carriage Driver | Private Hire Driver | Hackney Carriage Vehicle | Private Hire Vehicle |
|---------|-------------------------|---------------------|--------------------------|----------------------|
| 2011/12 | 356                     | 638                 | 107                      | 730                  |
| 2012/13 | 324                     | 613                 | 107                      | 684                  |
| 2013/14 | 330                     | 692                 | 107                      | 743                  |
| 2014/15 | 319                     | 589                 | 107                      | 587                  |

**Table 2:**

| Year    | Hackney Carriage Driver | Private Hire Driver | Hackney Carriage Vehicle | Private Hire Vehicle | Private Hire Operator | TOTAL INCOME |
|---------|-------------------------|---------------------|--------------------------|----------------------|-----------------------|--------------|
| 2011/12 | £40,940                 | £64,438             | £55,200                  | £191,260             | £14,210               | £366,048     |
| 2012/13 | £37,260                 | £61,913             | £57,200                  | £179,208             | £13,720               | £349,301     |
| 2013/14 | £37,950                 | £69,892             | £52,800                  | £194,666             | £15,190               | £370,498     |
| 2014/15 | £50,617                 | £87,680             | £45,459                  | £166,289             | £17,422               | £367,467     |

28. If no action is taken on Hackney Carriage and Private Hire vehicle criteria, Vehicle Age Limits, licence fees and associated costs the Authority may not be able to adequately regulate the transport services in the city.

### **Controlling Standards and Enforcement**

29. Drivers and vehicles are not bound by the taxi licensing policy in the area they predominantly work, but by that of the Authority that they are licensed with.
30. Therefore vehicles licensed by neighbouring authorities cannot be regulated by Oxford Licensing Officers unless they are “plying for hire” (acting as an unlicensed Hackney Carriage; a Hackney Carriage may only ply for hire within the boundary of the Authority it is licensed by).
31. Requirements regarding vehicle emissions, vehicle safety and driver behaviour are only regulated by the Authority that issues the licence, not the Authority within which the driver and vehicle may predominantly work.

### **Reputational Risk**

32. Without having the powers to control and enforce drivers and vehicles licensed elsewhere that predominantly work in the City, this Authority is unable to protect the public and the environment.
33. Whilst complaints received by this Authority in relation to drivers and vehicles licensed elsewhere are passed on to the Authority that issued the licence, the general public may not be aware that a driver and vehicle supplied to perform their required transport service may not be licensed by the same Authority as the Private Hire Operator with whom the booking was made.
34. Frequent complaints made in relation to drivers and vehicles licensed by not only this Authority but by other Authorities hold this Licensing Authority responsible for the actions of those drivers and the condition of those vehicles.
35. Whilst this may seem an unfair position to take, in the eyes of the public, they expect the Council to protect them and investigate any substandard practices.

### **Safeguarding**

36. The Hackney Carriage and Private Hire Trade is coming under increasing scrutiny in the wake of a number of high profile child sexual exploitation cases across the country.
37. Recently, the Casey Report into how Rotherham Borough Council responded to its own review of child sexual exploitation in the city

heavily criticised the Council. The report focused on the role of the police, child protection functions and the taxi licensing function. The Operation Bullfinch Serious Case Review also included a section on taxi regulation.

38. The Licensing Authority has robust criteria in place for all new Hackney Carriage and Private Hire drivers applicants and Private Hire Operator applicants to demonstrate an understanding of Safeguarding by way of:
  - Information provided to them in the Application Packs and online;
  - Information provide, within the Disability Awareness and Safeguarding Course;
  - Information provided within a Safeguarding leaflet given to every licence holder at their renewal appointment; and
  - Every applicants understanding is tested within the Local Knowledge and Safeguarding Test he/she must sit as part of the new applicant process.
39. A proportion of the drivers working in the City may be licensed by authorities who are yet to implement robust safeguarding strategies.
40. When formulating recommended actions seeking to redress the aforementioned matters, Officers sought the views of the local Trade, and other Licensing Authorities who had experienced similar issues.
41. In response to stemming the flow of vehicles licensed by neighbouring authorities, those we spoke to (including St. Albans, Luton, Watford, Milton Keynes, Birmingham, Manchester, and Newcastle) reviewed their vehicle licensing criteria, in order to reduce the incentives on offer to drivers and vehicle owners should they apply to obtain a licence from another Authority.
42. In turn those Authorities put in place joint enforcement programmes with their neighbouring authorities to ensure that Licensing Officers of the neighbouring authorities had some presence in the cities affected within which their licence holders were predominantly working.
43. Additional enforcement operations targetting the vehicles licensed elsewhere but working in those cities was also undertaken with the police and other agencies in order to control both the public safety element and environmental impact on those cities caused by these vehicles and their drivers.

### **Recommended Actions**

44. The following proposals are put before this Committee to consider and recommend to Council for adoption:



- **With immediate effect** revoke the Vehicle Age Limits Policy due to come into force on 1 January 2016, save for the current requirement that any vehicle presented for licensing for the first time be under 5 years of age.
- **On 1 January 2016** commence a policy of no upper Vehicle Age Limits, whilst retaining the current requirement that any vehicle presented for licensing for the first time be less than 5 years of age.
- **On 1 January 2016** introduce a new frequency of Certificate of Compliance Testing. This will encourage owners to purchase newer vehicles which will be of more modern engine design and as such be more environmentally-friendly and technologically safe, whilst continuing our current robust testing criteria forcing owners of older vehicles into more proactive vehicle maintenance.
  - Annually for vehicles aged under 3 years of age; and
  - Twice per annum for vehicles aged 3 years or more.
- **From 1 January 2016** introduce a “low emission” vehicle discount based on the Vehicle Excise Duty Bands (as offered by neighbouring authorities). A £100.00 reduction in the licence fee for Hackney Carriage and Private Hire vehicles that fall within Bands A, B and C will be applied. A list of the Vehicle Excise Duty Bands is attached at **Appendix 2**.
- **From 1 January 2016** for all currently licensed vehicles and **with immediate effect** for any vehicles presented for licensing for the first time, remove the mandatory requirement for the current Council livery to be affixed to the front side doors and the top of the front windscreen of Private Hire vehicles, and instead allow the option of retaining the Council livery, or to allow no such livery but instead place a wallet-sized front windscreen outward facing “plate” as applied by a number of other Authorities. The cost to the vehicle licence holder for this “plate” will be £15.00 (a saving of £25.00 when compared to the cost of the current Council required liveries). The “plate” design is attached at **Appendix 3**.
- **From 1 January 2016** require an official “internal” plate to be fitted within all Hackney Carriage Vehicles licensed by this Authority. The internal plate is to be fitted on the clear plastic glass of the driver compartment, facing into the rear passenger compartment. The “plate” design (of the same dimensions as the Private Hire internal “plate”) is attached at **Appendix 4**.
- **With immediate effect**, remove the prohibition of multi-people carriers of black paintwork being licensed as Private Hire vehicles.
- **With immediate effect**, remove the requirement for all vehicles presented for licensing on the first occasion to pay a £50.00 “plate

deposit”, which will further reduce the price incentive to seek a licence elsewhere.

- Amend the Hackney Carriage & Private Hire Vehicle Application Pack in line with any adopted proposals. A copy of the Pack (should the above proposals be agreed) is attached at **Appendix 5** (for ease to the reader the amendments are highlighted within the Pack).
- Request that the Licensing Manager refresh the Licensing Authorities schedule of operations to include more joint operations with neighbouring districts, Thames Valley Police and the Vehicle and Operator Services Agency.

### **Financial Considerations**

45. Any expenditure contained within this report is met within the existing Taxi Licensing budgets.
46. The proposal to reduce the licence fee applicable to a “low emission” vehicle could result in an estimated reduction of income to the Authority of £20,000.
47. This should be offset by the return of those previously licensed as Hackney Carriage elsewhere to this Authority as Private Hire.
48. The Council has been shortlisted by the Office for Low Emission Vehicles to undertake a funded research project into low emission Hackney Carriage vehicles that may result in a significant grant that will benefit the Trade.

### **Legal Considerations**

49. The Local Government (Miscellaneous Provisions) Act 1976 at sections 47 and 48 allows the licensing authority to attach to vehicle licences such conditions as it considers reasonably necessary. Improving standards in vehicle safety and air quality are relevant factors in this respect. Any licence holder aggrieved by any condition attached to their licence may appeal to the Magistrates’ Court

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