

**Title of meeting:** LICENSING COMMITTEE

**Date of meeting:** 12 APRIL 2019

**Subject:** Town Police Clauses Act 1847 and Part II Local Government (Miscellaneous Provisions) Act 1976  
Hackney Carriage and Private Hire Matters - Amendments to the Statement of Licensing Policy

**Report by:** DIRECTOR OF CULTURE, LEISURE AND REGULATORY SERVICES

**Wards affected:** ALL

**Key decision:** No

**Full Council decision:** No

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**1. Purpose of report**

The purpose of this report is twofold. Firstly, it is for the Committee to consider and approve amendments to its current statement of licensing policy for the hackney carriage and private hire trade in Portsmouth so far as they relate to age specifications for vehicles, having regard to the views of the Committee when this item was first considered and deferred on 22 March 2019.

Secondly, to determine whether the Committee would wish officers to prepare a future report, together with any relevant evidence, in order to review any other aspect of the policy that the Committee considers is necessary. Any report will not be able to be considered by the Committee until the end of Purdah arrangements.

**2. Recommendations**

**2.1 That the Licensing Committee approve the proposed amendments to the Statement of Licensing Policy as follows:**

**a) That the Statement of Licensing Policy (reference - minute 9/2016) be amended as follows:**

- (i) That, as a matter of local policy and condition for both hackney carriage and private hire vehicle licences; all private hire and hackney carriage vehicles presented for initial licensing shall be under 4 years of age on first licensing;**

**(ii) In respect of:**

- Any designated wheelchair accessible vehicle (WAV) (as designated by the Licensing Authority in accordance with section 167 of the Equality Act 2010);
- Any electric and/or hybrid vehicle; or
- Any multi-passenger vehicle (MPV) (consisting of 8 passenger seats)

a licensed hackney carriage or private hire vehicle may remain licensed until 10 years of age, provided the vehicle meets with the requirements of the PATN guidance as approved by the Council and is supported by an evidenced service history in line with the manufacturers guidelines;

**(iii) Any other vehicle type not mentioned in (ii) above may remain licensed until 8 years of age, provided the vehicle meets with the requirements of the PATN guidance as approved by the Council and is supported by an evidenced service history in line with the manufacturers guidelines;**

**(iv) That any vehicle presented for a temporary use licence shall be under 2 years old and the vehicle meets with the requirements of the PATN guidance as approved by the Council and is supported by an evidenced service history in line with the manufacturers guidelines;**

**(v) As a consequence of the change in policy in relation to age specifications, that the existing inspection and testing of vehicles in accordance with the PATN guidance for both types of vehicles be varied as follows:**

**Vehicles 0 - 4 years of age - 1 full test per year;**

**Vehicles 5 years of age and over - 2 full tests per year;**

**Any reference within the policy to "mini-tests" to no longer apply;**

**(vi) That the Committee grant delegated authority to the Head of Culture, Leisure and Regulatory Services to:**

- Consider and determine applications for continued licensing of exceptional hackney carriage and private hire vehicles over the age of 8 years (or 10 years in respect of WAVs, MPVs (consisting of 8 passenger seats) and Electric and/or hybrid vehicles) on individual merit and the

**scheme of delegation as set out in the policy be amended accordingly;**

- **To prepare appropriate guidance to applicants seeking permission to extend the age specification in respect of individual licensed vehicles;**
- **To charge a reasonable application fee for such applications (subject to statutory public consultation).**

**b) That the Committee grant delegated authority to the Head of Culture, Leisure and Regulatory Services to:**

- **Consider individual requests by licensed hackney carriage and private hire vehicle proprietors to permit discretion in respect of the lifting of vehicle suspensions arising from an inspection failure in those circumstances where:**
  - **a garage retest cannot be immediately re-arranged, (up to a maximum period of 2 working days); and**
  - **the lifting of the suspension will not contravene an element of DVSA prescribed testing legislation for MOT testing of the appropriate class of vehicle and will not materially affect the safety, mechanical fitness or comfort of the vehicle concerned or breach a condition or byelaw attached to the vehicle licence.**
- **Prepare suitable guidance for hackney carriage and private hire vehicle proprietors (in conjunction with the Council's Approved Vehicle Inspector) in respect of those circumstances where discretion can be used.**

**c) If considered necessary, to task officers to bring a future report to the Committee (outside of current Purdah arrangements), together with any available evidence and necessary consultation with relevant stakeholders, that would support any review of any other aspects of the current statement of licensing policy**

### **3. Background**

**3.1** On 24 February 2016, the Licensing Committee considered and approved its Statement of Licensing Policy (minute no. 9/2016 refers). This decision was noted and the recommendations and resolutions arising from the Licensing Committee were approved by Council on 22 March 2016 (minute no. 27/2016 refers).

- 3.2 In addition, Council delegated approval to the Licensing Committee to retain overall responsibility for the policy, to include any future amendments, variations, substitutions or deletions as may be required and after appropriate consultation.
- 3.3 The Committee previously considered a report on amendments to the current statement of licensing policy in relation to age restrictions on 22 March 2019. That report was subsequently deferred until the meeting today in order for amendments to be made to the report in respect of Wheelchair Accessible Vehicles (WAVs), MPV vehicles and electric and/or hybrid vehicles. Specifically the Committee requested further information concerning age restrictions for these vehicles.
- 3.4 Members also requested further information and amendments to the report in respect of discretion in terms of suspension of vehicles in such circumstances where vehicles were unable to be retested within 2 working days and the failure would not contravene an element of DVSA prescribed testing legislation for MOT testing of the appropriate class of vehicle or materially affect the safety, mechanical fitness or comfort of the vehicle or breach a condition attached to the vehicle licence. Examples of recent test failures are attached as **Appendix A** to this report.
- 3.5 The primary objective of the Committee in relation to licensing of vehicles is to ensure that licensed hackney carriages and private hire vehicles are maintained to the highest standards and that the public have access to safe, clean, environmentally friendly and comfortable vehicles.
- 3.6 Hackney Carriage and Private Hire Trade representatives have canvassed both the Licensing Service and Members via the Consultative Group Meetings, for consideration to be given to amend the current policy relating to vehicle age limits. Reasons given for this amendment include reference to the limitations of purchasing ex-fleet/lease hire vehicles which are normally made available for retail sale after 3 years.
- 3.7 Members gave tacit approval, in principle, to extend the entry age requirement for vehicles from 3 years to 4 years provided the empirical evidence from the Council's nominated vehicle inspector supported this proposal. Attached as **Appendix B** is a summary of vehicle testing for the last 4 years which shows a significant decrease in numbers of vehicle test failures for younger vehicles. This has been more evident since the introduction of the age policy restrictions in 2016.
- 3.8 The current policy recognises a drive towards licensing a fleet of younger, cleaner and greener vehicles and highlighted at the time that the Licensing Authority, in discussion with those responsible for environmental health issues, should wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted.

- 3.9 The Council is required through a Ministerial Directive to produce an Air Quality Plan to achieve compliance city-wide with legal limits for nitrogen dioxide. The Council is therefore currently looking at various measures to improve air quality in the city under the guidance of DEFRA. Such schemes include promoting and incentivising the purchase of OLEV and ULEV taxis and private hire vehicles. Obviously these measures are reliant upon the support of the trade to purchase these vehicles and it would be appropriate in those circumstances to consider ways of incentivising a change to such vehicles which could include consideration by the Licensing Committee of amending its policy to extend the maximum period of licensing for those specific types of vehicles.
- 3.10 The Assistant Director of Transport, Environment and Business Support (in consultation with the Cabinet Member for Traffic and Transportation) has been asked to advise the Committee of the likely impact on air quality in the City if the Licensing Authority were to extend the maximum age limit of all licensed vehicles (petrol and diesel) from the current restriction of 8 years to 10 years. This advice is set out in paragraphs 3.11 and 3.12 below.
- 3.11 It is acknowledged that one of the main sources of nitrogen dioxide in the city's air is emissions from road vehicles. In 2017 the Council commissioned a Source Apportionment Study which identified that of all road vehicles, cars and taxis were the greatest contributors to mean annual concentrations of nitrogen dioxide. Changes to emissions standards over time have reduced the levels of pollution produced by vehicles, therefore older vehicles still on the road are likely to be the heaviest polluters. However, fully electric and hybrid-electric vehicles produce much lower levels of nitrogen dioxide, meaning an 8 year old electric or hybrid-electric taxi or private hire vehicle will have a much smaller negative impact on air quality than a comparable diesel or petrol vehicle.
- 3.12 Notwithstanding the information provided in paragraphs 3.9 and 3.10 above, Members of the Committee have indicated that they would wish to see amendments to the current policy to permit petrol/diesel WAVs and MPVs, as well as electric/hybrid vehicles, to benefit from an increase in the age restrictions from 8 to 10 years.
- 3.13 There is a risk that by increasing the age limit for petrol/diesel vehicles, this will reduce the incentive for proprietors to invest in cleaner and greener cars within the city as the conventional fuel vehicles will be able to be purchased at far less cost than investing in an electric/hybrid vehicle. Currently, there are only 4 hybrid hackney carriages, 33 hybrid private hire vehicles and 1 electric private hire vehicle.
- 3.14 There is also a risk that the increase in age limits for these vehicles will lead to a subsequent increase in vehicle inspection failures which was a major reason for the amendment to the vehicle age policy in 2016. To assist members in determining whether to increase age limits to 10 years for **all** WAVs and MPVs in addition to electric/hybrid vehicles, a vehicle test summary for 2018 has been

prepared below which provides further information on overall figures, failures by type and age profile.

### 3.15 SUMMARY OF VEHICLE TEST FAILURES - 2018

<b>Total Number of Hackney Carriage Tests</b>	<b>408</b>	<b>Total Number of Private Hire Tests</b>	<b>1433</b>
Pass	227	Pass	1006
Fail	181	Fail	427
<b>Failure Percentage</b>	<b>44%</b>	<b>Failure Percentage</b>	<b>30%</b>

<b>Overall Failure</b>	<b>33%</b>
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<b>Failure Type</b>	<b>Total Number</b>	<b>Failure Percentage</b>
Lighting System	199	33%
Steering & Suspension	162	27%
Brakes	92	15%
Tyres & Wheels	193	32%
Seat Belts	24	4%
Vehicle Body & Structure	258	42%
Exhaust, Fuel & Emissions	49	8%
Drivers view of the road	35	6%
General	156	26%
Wheelchair Accessible	10	2%

<b>Total HC/PHV Age Profile</b>	<b>Total</b>	<b>Failures</b>	<b>Percentage</b>
0 - 3 years	313	57	18%
3 - 6 years	747	216	29%
6 - 9 years	664	279	42%
9 years	113	46	41%



<b>Hackney Carriage Age Profile</b>	<b>Total</b>	<b>Failures</b>	<b>Percentage</b>
0 - 3 years	33	9	27%
3 - 6 years	178	61	34%
6 - 9 years	148	71	48%
9 years	77	33	43%

<b>Private Hire Age Profile</b>	<b>Total</b>	<b>Failures</b>	<b>Percentage</b>
0 - 3 years	280	39	14%
3 - 6 years	599	163	27%
6 - 9 years	516	208	40%
9 years	36	17	47%

3.16 For comparison purposes, the table below contains the same data for 2014 (except for the split between HC and PH age profile) when vehicle age limits were 8 years for HC/PH saloon, hatchbacks, estates and MPV's and 12 years for HCV WAVs:

**SUMMARY OF VEHICLE TEST FAILURES - 2014**

<b>Total Number of Hackney Carriage Tests</b>	<b>298</b>	<b>Total Number of Private Hire Tests</b>	<b>1142</b>
Pass	107	Pass	437
Fail	190	Fail	705
<b>Failure Percentage</b>	<b>64%</b>	<b>Failure Percentage</b>	<b>62%</b>

<b>Overall Failure</b>	<b>62%</b>
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<b>Failure Type</b>	<b>Total Number</b>	<b>Failure Percentage</b>
Lighting System	589	41%
Steering & Suspension	203	14%
Brakes	111	8%
Tyres & Wheels	89	6%
Seat Belts	33	2%
Vehicle Body & Structure	194	13%
Exhaust, Fuel & Emissions	268	19%
Drivers view of the road	111	8%

General	146	10%
Wheelchair Accessible	3	0.2%

Total HC/PHV Age Profile	Total	Failures	Percentage
0 - 3 years	226	77	34%
3 - 6 years	30	2	67%
6 - 9 years	354	204	58%
9 years	110	77	70%

**Members will note that the failure rate was significantly higher when older vehicles were allowed to remain licensed. Since the implementation of the current policy in relation to age limits there has been a reduction in vehicle inspection failures by 29%.**

- 3.17 The second purpose of this report is to address any other areas of the current statement of licensing policy that the Licensing Committee would wish to be reviewed. Members are requested to consider what policy considerations they would wish to see amended, and in what respect, in order that officers may bring a future report to the Committee, with appropriate guidance and evidence to enable them to make any further informed changes.

#### **4. Reasons for recommendations**

- 4.1 In accordance with the provisions of the policy, the Committee endorsed in 2016 that a review will take place every 3 years, if required.
- 4.2 Since the inception of the statement of licensing policy, a number of representations have been received from the taxi and private hire trade in terms of amendments to the policy.
- 4.3 The Licensing Service would recommend a number of minor amendments to the policy to clarify certain requirements and to recognise current and imminent legislative arrangements.

#### **5. Equality impact assessment (EIA)**

- 5.1 A preliminary EIA has been completed and is attached as **Appendix C**.

#### **6. Legal Implications**

- 6.1 The legal implications are embodied in this report and associated appendices.

**7. Finance Comments**

7.1 None applicable directly to this report but recommended guiding principles for "Fees and Charges" are contained within Chapter 16 of the statement of licensing policy.

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Signed by:

**Appendices:**

- Appendix A - Examples of Vehicle Test Results**
- Appendix B - Summary of vehicle mechanical testing from 2014 - 2018**
- Appendix C - Preliminary Equality Impact Assessment**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

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Signed by: