

Title of meeting: Licensing Committee

Date of meeting: Thursday 20 February 2020

Subject: Operator and Council Signage on Licensed Vehicles

Report by: Director of Culture, Leisure and Regulatory Services

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 The purpose of this report is for the Licensing Committee to consider concerns raised at the Hackney Carriage/Private Hire Consultative Group Meeting in relation to its policy for operator and Council signage on licensed vehicles.

2. Recommendations

- a) **That the Licensing Committee duly note the comments raised by trade representatives;**
- b) **That the Committee duly note the contents of this report;**
- c) **That the Committee determine to make no amendments to its current statement of licensing policy in relation to Operator and Council signage on licensed vehicles.**

3. Background

- 3.1 This report is before the Licensing Committee following concerns being raised at the Hackney Carriage/Private Hire Consultative Group meeting held on Thursday 3 October 2019 in relation to operator and council signage on licensed vehicles.

Certain trade representatives consider that the requirement for operator signage to be permanent (i.e. not magnetic) hinders drivers working for various private hire operators at any one time and also hold the view that PCC is "restricting free trade" in breach of the law.

In addition, some trade representatives have raised concerns in relation to criminal damage being caused to licensed vehicles and have advocated that no signage (including the mandatory Council signage) should be affixed to vehicles which identifies it as a licensed vehicle.

Reference has also made to policies of neighbouring borough councils whereby licensed vehicles are undertaking bookings in Portsmouth but are not required to display livery as a condition of the licence. The trade representatives have stated that they think this is "unfair" for PCC licensed vehicle proprietors.

3.2 A copy of the representations made by the trade representative for Uber drivers is attached as **Appendix A** to this report.

3.3 However, the views expressed above are not representative of all of the hackney carriage/private hire trade. Aqua Cars Ltd, a major private hire operator within Portsmouth, who has at least 700 vehicles operating under its licence, take a completely opposing view and fully endorse the Council's policy in relation to Operator and Council signage.

3.4 I have also received correspondence from the GMB union who have major concerns about removal of livery on licensed vehicles and its negative effect in terms of cross border hiring which is attached as **Appendix B** to this report.

3.5 **Legislative Background**

The Local Government (Miscellaneous Provisions) Act 1976 ("The Act") makes specific reference to signage on licensed vehicles.

Section 48(2) states:

"A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provision of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates".

In addition, section 48(5) places a duty on the licensing authority in relation to the issuing of a plate. It states

"Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted".

It is an offence for a vehicle to be used as a private hire vehicle unless the plate or disc is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the licence¹.

It is clear, therefore, that the legislation expressly requires that licensed private hire vehicles must be clearly identified as such and in such a way as to distinguish them from hackney carriages and indeed private vehicles.

¹ In accordance with section 75(3) of the 1976 Act, the Licensing Authority may exercise discretion in respect of the display of a plate on a licensed vehicle. Such discretion can be applied on a case by case basis for licensed vehicles undertaking airport, executive, VIP or military bookings.

3.6 PCC Statement of Licensing Policy

The current policy requirements in respect of the display of signage of licensed vehicles are as follows:

Vehicle licence conditions:

The vehicle proprietor shall comply with any approved local livery requirements for both hackney carriage and private hire vehicles and so far as this relates to roof signs for hackney carriages and all exterior and interior signage

Operator licence condition:

Any proposed company (or other) operator advertisement (whether for display on or from a vehicle or from a building) shall be forwarded to the council and approved by an authorised officer, in writing, at least 7 days prior to such advertisements being displayed.

Hackney Carriage Vehicle licence condition:

The vehicle licence plate shall be securely affixed to the rear of the vehicle and kept in public view at all times. The front windscreen licence disc and interior plate number shall also be on public view. The proprietor shall report any loss in respect of the vehicle licence, windscreen disc, interior plate number or rear licence plate to the council within 24 hours.

1) *No interior or exterior signs, adverts, notices or any other wording shall be publicly displayed from a licensed vehicle without the prior written consent of the council. A proprietor shall submit any signage for approval and for display from the front doors only to the council at least 7 days prior to such proposed use and shall NOT display any signage until written approval has been given by an authorised officer.*

2) *(1) above shall not apply to the following:*

- Any prior approved Portsmouth private hire operator windscreen and/or rear window sign stating the trade name and/or telephone number and www address of the licensed Portsmouth operator.*
- Any prior approved Portsmouth private hire operator signage (permanent and not magnetic) or approved proprietor signage displayed from the front doors of the licensed vehicle only.*
- The local mandatory (permanent and not magnetic) display of the council's corporate livery for hackney carriages as may be from time to time prescribed by the council.*

3) *A proprietor shall only display on or from the vehicle **one set** of approved Portsmouth operator signage as required in (2) above at any one time.*

Private Hire Vehicle licence condition:

The vehicle licence plate shall be securely affixed to the rear of the vehicle and kept in public view at all times. The front windscreen licence disc and interior plate number shall also be on public view. The proprietor shall report any loss in respect of the vehicle licence, windscreen disc, interior plate number or rear licence plate to the council within 24 hours.

1) *No interior or exterior signs, adverts, notices or any other wording shall be publicly displayed from a licensed vehicle without the prior written consent of the council. A proprietor shall submit any signage for approval and for display from the front doors only to the council at least 7 days prior to such proposed use and shall NOT display any signage until written approval has been given by an authorised officer.*

2) *(1) above shall not apply to the following:*

- Any prior approved Portsmouth operator windscreen and/or rear window sign stating the trade name and/or telephone number and www address of the licensed Portsmouth operator.*
- Any prior approved Portsmouth operator signage (permanent and not magnetic) or approved proprietor signage displayed from the front doors of the licensed vehicle only.*
- The local mandatory (permanent and not magnetic) display of the council's corporate livery for the rear doors of private hire vehicles - "advanced bookings or pre-booked only" as may be from time to time prescribed by the council and with the exception of airport only vehicles and exceptional prestige vehicles.*

3) *A proprietor shall only display on or from the vehicle **one set** of approved Portsmouth operator signage as required in (2) above at any one time.*

3.7 Current Best Practice Guidance - DfT - Vehicle Identification

The DfT have produced Best Practice Guidance for Licensing Authorities to assist in the regulation of the taxi and private hire trade. It is recognised that many licensing authorities considered their licensing policies in the context of this Guidance which the DfT welcomes.

3.8 Paragraph 38 of this guidance deals with vehicle identification and states:

Members of the public can often confuse PHVs with taxis, failing to realise that PHVs are not available for immediate hire and that a PHV driver cannot be hailed. So it is important to distinguish between the two types of vehicle. Possible approaches might be:

- *a licence condition that prohibits PHVs from displaying any identification at all apart from the local authority licence plate or disc. The licence plate is a helpful indicator of licensed status and, as such, it helps identification if licence plates are displayed on the front as well as the rear of vehicles. **However, requiring some additional clearer form of identification can be seen as best practice.** This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver; and secondly because it is quite reasonable, and in the interests of the travelling public, for a PHV operator to be able to state on the vehicle the contact details for hiring;*
- *a licence condition which requires a sign on the vehicle in a specified form. This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local licensing authority, and which also has some words such as ‘pre-booked only’. **This approach seems the best practice; it identifies the vehicle as private hire and helps to avoid confusion with a taxi, but also gives useful information to the public wishing to make a booking. It is good practice for vehicle identification for PHVs to include the contact details of the operator.***

3.9 Draft Statutory Guidance - Dft

In addition to the current best practice guidance, the DfT have also consulted upon draft statutory guidance to licensing authorities in respect of taxi and private hire licensing on how their licensing powers can be exercised and in particular to safeguard children and other vulnerable members of society.

Members may recall consideration of this document at the Licensing Committee on Friday 22 March 2019.²

In particular, the draft statutory guidance highlights:

"When formulating a taxi/phv policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be over-estimated.

Annex B of the guidance suggests that information should be made available to passengers in respect of their personal safety when using taxis/phvs.

In particular this includes:

- How to tell if a taxi or private hire vehicle is licensed;
- Note the licence number
- What a phv should look like e.g. colour, signage, licences plates etc.

² <https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=125&MId=4230>

3.10 Reference Material - Button on Taxis: Licensing Law and Practice

James Button is a nationally renowned solicitor dealing with all aspects of licensing law and practice. His particular area of expertise is in relation to taxi and private hire licensing. His publication dealing with this complex area of legislation is now on its fourth edition and is a key guide for licensing authorities responsible for taxis and private hire. In addition, James Button is also the President of the Institute of Licensing which is the professional body that represents those who work within the field of licensing.

It may be useful material for the Committee to have regard to when considering the issue of signage on licensed vehicles. The reporting officer will refer to and summarise relevant parts of the publication during the course of the hearing.

3.11 Crown Court Appeal - Basingstoke & Deane BC v John Greenhaugh and Andrew John Mulley - 2007 - Use of Magnetic Signage on licensed vehicles

This was an appeal to the Crown Court by Mr Greenhaugh and Mr Mulley against a decision made by a District Judge in the Magistrates' Court, dismissing their appeal against conditions attached to private hire vehicle licences requiring the display of permanent signage.

In summary, the Council decided that all private hire vehicles should display a sign indicating that the vehicle was licensed by Basingstoke and Dean and displayed the wording "No booking, no ride".

The condition was introduced by the council to avoid any confusion between phv and taxis but also, and much more pertinent, to distinguish between licensed vehicles and those unlicensed which may well be run by unscrupulous persons who take the opportunity of picking up vulnerable passengers.

There was common ground between all parties in that there was a need for such signage but the basis of the appeal was to challenge whether it was reasonable for the council to mandate the signage had to be permanently affixed. The appellants were of the view that the use of magnetic signage would amply meet the requirements of the condition.

Reasons given for the use of magnetic signage included:

- Removal of the signage when the vehicle was used for private purposes;
- Less damage to vehicles when signage removed;
- Interference in personal life with persons attempting to book vehicle when parked at home.

In response the Council raised concerns for magnetic signage as follows:

- Risk of magnetic signage coming off the vehicle in windy conditions or falling off the vehicle;

- Drivers forgetting to put the signage back on the vehicle
- Vehicles without signage being in contravention of the licence conditions;
- Increased resources to monitor and ensure compliance
- Risk to public safety

The Judge and the bench of Justices who considered this appeal, determined that, whilst they were sympathetic to the appellants' personal difficulties and inconveniences they said they had suffered, when those were weighed against the important considerations of public safety and proper monitoring of private hire vehicles generally by the council, they found that it was reasonably necessary to insist upon permanent display of signage by way of permanently affixed vinyl signs.

The Appeal Court identified that the balance tipped firmly in favour of the Council and the appeal was therefore dismissed.

3.12 **Competition and Markets Authority (CMA)**

The CMA has a statutory duty to seek to promote competition for the benefit of consumers.

As part of its work on local authorities' impact on competition, the CMA has undertaken a review of taxi and private hire vehicle licence conditions.

The CMA makes it clear that it recognises that taxi and phv licensing conditions play a crucial role in ensuring the safety of passengers and that regulations on vehicle safety and driver suitability are clearly necessary to ensure safety.

It has prepared guidance to help local authorities understand the impact some licensing conditions can have on consumers and wish to ensure the right balance between promoting customer safety and avoiding consumers having to face higher prices or lower service quality. Their view is that competition should only be restricted by regulatory rules to the extent that it is necessary to protect consumers.

The CMA's competition impact assessment guidelines are intended to help authorities when devising policy to assess their impact on competition and the interests of consumers.

These guidelines contain 4 tests which can help policy makers assess whether their proposals will limit competition. They are:

1. Will the measure directly or indirectly limit the number or range of suppliers?
2. Will the measure limit the ability of suppliers to compete?
3. Will the measure limit supplier's incentives to compete?
4. Will the measure limit the choices and information available to consumers?

The CMA have given examples on its website where conditions may harm the interest of passengers

Competition impact assessment test	Examples	Nature of harm
1. Limiting the number or range of suppliers	Quantity restrictions on taxis	Quantity restrictions may cause harm to passengers through reduced availability, increased waiting times, reduced scope for downward competitive pressure on fares and reduced choice. They also may increase the risk to passenger safety if they encourage the use of illegal, unlicensed drivers and vehicles.
1. Limiting the number or range of suppliers	Restricting market development by: - Banning drivers from working for more than one operator - Conditions on vehicle signage that make it difficult for drivers to work for more than one operator	Such conditions make it difficult for firms to enter the market or expand by recruiting existing drivers on a part time basis. They may also encourage drivers to move to the largest operator. This may reduce the number of firms, thereby reducing competitive pressure to reduce prices or improve service quality.
2 & 3. Limiting the ability and incentives of suppliers to compete	Service provision is over regulated beyond passenger needs/wants: - Compulsory landline helpline, sometimes having to be based within the authority - Minimum number of days advance booking function - Extensive navigational skills assessments for PHV drivers	Private hire is a market where passengers are likely to be in a good position to trade off price and quality levels that best suit their needs. If sufficient numbers of passengers desire a high service standard, then it is likely that some operators will offer it. Over-regulation of service standards is likely to mean higher costs and therefore higher fares for passengers, especially those who would most value a low cost service. It may also create barriers to entry, thereby reducing the number of operators, and hence competitive pressure between them.

However, it is important to consider local circumstances when undertaking such impact assessments and there may be compelling reasons why the licensing authority consider it appropriate to introduce regulations for the purposes of public safety.

The licensing authority has received no representations from consumers or licensed operators in the city that the current requirements in respect of signage and livery on vehicles is limiting choices and information available to customers or is limiting suppliers ability to compete.

In fact, the existing vehicle licence conditions do not require a licensed vehicle to display company livery unless it is so required by the licensed operator (and has been approved in advance by the Licensing Authority). It could be argued that the display of company livery gives the supplier a greater incentive and marker to compete in the market with vehicles working in an area advertising that company.

It is the view of your reporting officer that the current policy in relation to company and council livery does not limit competition and does not have a negative impact on consumers.

It is also the view of your reporting officer that in order to establish that a vehicle is licensed, it must display signage to that effect and that signage must be displayed on the vehicle at all times. Signage on licensed vehicles is of paramount importance to those persons who wish to use their services and have the reassurance that the vehicle is properly licensed by the licensing authority.

It is suggested that mandatory corporate livery restricts competition on the basis that industry standards require vehicles used for airport work or contract / executive work to be discreet. This is not accepted by the reporting officer. It is commonplace for liveried vehicles to undertake airport work and there is no apparent barrier to trade or restriction from moving into that area of work. It is accepted that the policy / conditions permit vehicles that are exclusively used for this work to be excused from livery requirements where specifically requested.

3.13 Views of Portsmouth Police

Inspector Marcus Cator, Neighbourhood Inspector for Portsmouth, has been asked to comment upon the concerns raised. He has submitted the following observations for consideration by the Licensing Committee:

"Regards the livery on cars, I cannot provide any evidence to suggest that taxi drivers or their cars are targeted for damage or assaults within Portsmouth. We do have a very large taxi demographic and they do suffer from crime within their work and role, however this is largely under-reported.

Operation Taxi had its benefits, however the key learning was that in order for the police and partners to support the taxi community, they need to report the incidents to police. This requires trust. However our legitimacy within this community varies. The issue being that damage to a vehicle does not present high harm to persons, and our policing focus within the City is to prevent harm and risk to our communities. Within this diverse and very busy City, the volume of crime reported means that incidents such as damage to vehicles does not currently present as a priority. If this was reported more frequently, we could identify locations, patterns and trends and perhaps consider appropriate resource allocation and engagement.

This has worked particularly well with Jami Mosque during Ramadan and each year we provide a specific response to support their worshippers. This has resulted in a 95% reduction in vehicle crime during Ramadan over the past 2 years and very positive feedback from the community.

Regards the livery, I do believe in this diverse population that providing a service with clear branding encourages use and safeguarding. We have 11% of the population who are students and 4000 of these are foreign nationals. If they vulnerable and lone persons at risk, seeing a marked and identifiable vehicle representing safe transport, is a positive safeguarding measure. I personally believe that the livery and marking by PCC provides additional safeguarding to vulnerable persons.

Without reported evidence of this driving the focus of crime and disorder towards these vehicles, I can only consider the livery a positive method of providing additional safeguarding. This is my own professional opinion and in no way represents a level of corporate support by Hampshire Constabulary for the need for a livery. If sufficient evidence was recorded through 999 / 101 or online, by the taxi community, which demonstrated a focus on vehicles with livery, I would obviously have to consider the balance of harm and crime with the evidence presented".

3.14 Vehicle Crime Statistics for Portsmouth - 2018 and 2019

To assist the Committee in considering the extent of criminal damage being caused to licensed vehicles, crime statistics have been provided below for 2018 and 2019 have been evidenced below.

It should be noted that the figures quoted relate to ALL vehicle crime within the City and that there has been a **39% reduction** in vehicle crime in this time frame.

Table C2: Community Safety Partnerships: Number of recorded crimes for headline offences, year ending September 2018^{1,2,3,4,5}

England and Wales (excluding Greater Manchester Police)

Police Force Area code	Police Force Area name	Community Safety Partnership code	Community Safety Partnership name	Local Authority code	Local Authority name	Vehicle offences	Bicycle theft	Criminal damage and arson
E23000030	Hampshire	E22000111	Eastleigh	E07000086	Eastleigh	685	168	1,042
E23000030	Hampshire	E22000112	Fareham	E07000087	Fareham	724	168	658
E23000030	Hampshire	E22000113	Gosport	E07000088	Gosport	607	241	931
E23000030	Hampshire	E22000115	Havant	E07000090	Havant	974	202	1,337
E23000030	Hampshire	E22000116	Isle of Wight	E06000046	Isle of Wight	249	78	1,226
E23000030	Hampshire	E22000117	New Forest	E07000091	New Forest	949	209	1,567
E23000030	Hampshire	E22000374	North Hampshire	Combined Local Authorities		2,037	533	3,058
E23000030	Hampshire	E22000118	Portsmouth	E06000044	Portsmouth	2,704	1,066	3,112
E23000030	Hampshire	E22000120	Southampton	E06000045	Southampton	2,273	1,094	3,499
E23000030	Hampshire	E22000121	Test Valley	E07000093	Test Valley	525	90	832
E23000030	Hampshire		Unassigned Hampshire			94	12	110
E23000030	Hampshire	E22000122	Winchester	E07000094	Winchester	665	91	762
E23000027	Hertfordshire					8,665	1,414	9,464



Table C3: Community Safety Partnerships: Number of recorded crimes for headline offences, year ending September 2019^{1,2,3,4,5}

England and Wales (excluding Greater Manchester Police)

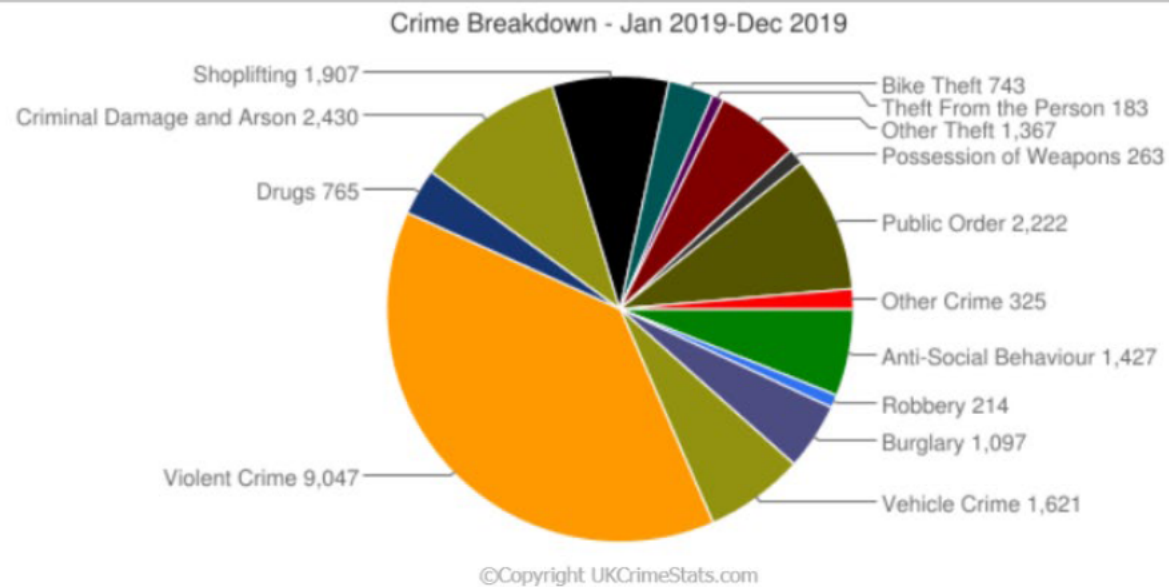
Police Force Area code	Police Force Area name	Community Safety Partnership code	Community Safety Partnership name	Local Authority code	Local Authority name	Vehicle offences	Bicycle theft	Criminal damage and arson
E23000030	Hampshire	E22000110	East Hampshire	E07000085	East Hampshire	542	75	791
E23000030	Hampshire	E22000111	Eastleigh	E07000086	Eastleigh	709	196	888
E23000030	Hampshire	E22000112	Fareham	E07000087	Fareham	508	179	711
E23000030	Hampshire	E22000113	Gosport	E07000088	Gosport	437	301	857
E23000030	Hampshire	E22000115	Havant	E07000090	Havant	691	131	1,156
E23000030	Hampshire	E22000116	Isle of Wight	E06000046	Isle of Wight	251	71	1,157
E23000030	Hampshire	E22000117	New Forest	E07000091	New Forest	963	145	1,485
E23000030	Hampshire	E22000374	North Hampshire	Combined Local Authorities		2,006	396	2,926
E23000030	Hampshire	E22000118	Portsmouth	E06000044	Portsmouth	1,656	768	2,744
E23000030	Hampshire	E22000120	Southampton	E06000045	Southampton	2,432	917	3,370
E23000030	Hampshire	E22000121	Test Valley	E07000093	Test Valley	605	76	744
E23000030	Hampshire		Unassigned Hampshire			175	14	137
E23000030	Hampshire	E22000122	Winchester	E07000094	Winchester	954	120	833
E23000027	Hertfordshire					9,545	1,668	8,889

Table C4: Community Safety Partnerships: Percentage change between recorded crimes for headline offences, year ending September 2018 and year ending September 2019^{1,2}
England and Wales (excluding Greater Manchester Police)

Police Force Area code	Police Force Area name	Community Safety Partnership code	Community Safety Partnership name	Local Authority code	Local Authority name	Percentage change		
						Vehicle offences	Bicycle theft	Criminal damage and arson
E23000030	Hampshire	E22000110	East Hampshire	E07000085	East Hampshire	-23	1	4
E23000030	Hampshire	E22000111	Eastleigh	E07000086	Eastleigh	4	17	-15
E23000030	Hampshire	E22000112	Fareham	E07000087	Fareham	-30	7	8
E23000030	Hampshire	E22000113	Gosport	E07000088	Gosport	-28	25	-8
E23000030	Hampshire	E22000115	Havant	E07000090	Havant	-29	-35	-14
E23000030	Hampshire	E22000116	Isle of Wight	E06000046	Isle of Wight	1	-9	-6
E23000030	Hampshire	E22000117	New Forest	E07000091	New Forest	1	-31	-5
E23000030	Hampshire	E22000374	North Hampshire	Combined Local Authorities		-2	-26	-4
E23000030	Hampshire	E22000118	Portsmouth	E06000044	Portsmouth	-39	-28	-12
E23000030	Hampshire	E22000120	Southampton	E06000045	Southampton	7	-16	-4
E23000030	Hampshire	E22000121	Test Valley	E07000093	Test Valley	15	-16	-11
E23000030	Hampshire		Unassigned Hampshire		
E23000030	Hampshire	E22000122	Winchester	E07000094	Winchester	43	32	9
E23000027	Hertfordshire					10	18	-6

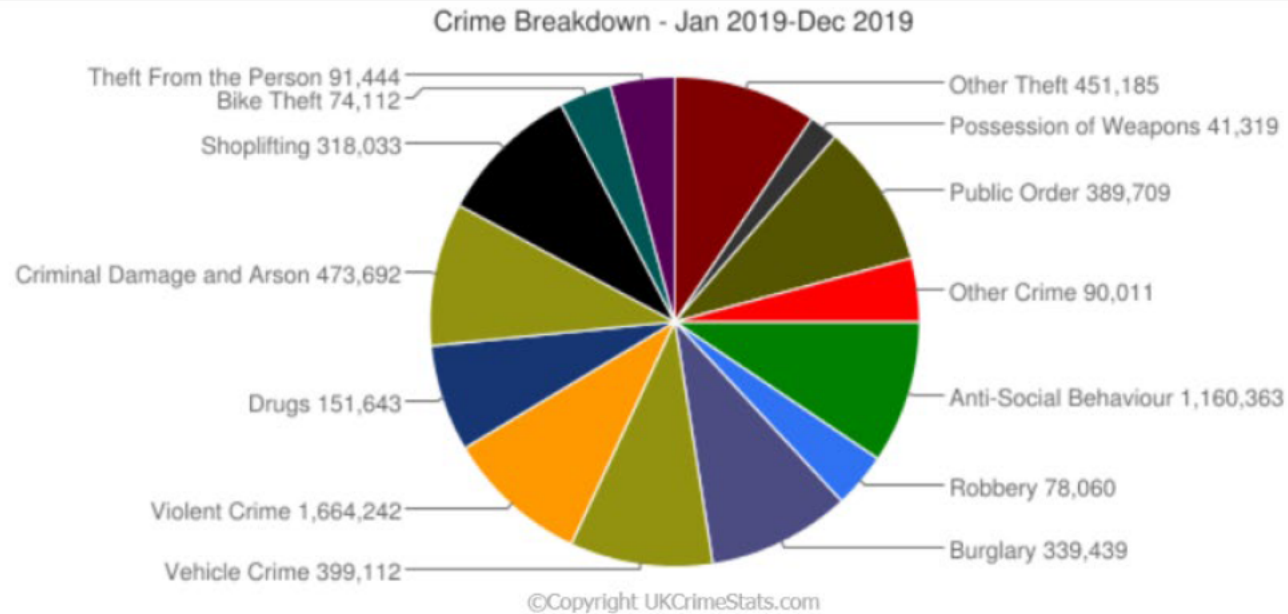
3.15 Crime Plus ASB Breakdown for Portsmouth - January 2019 - December 2019

Crime Plus ASB Breakdown for Portsmouth City Council



3.16 National Picture - All Crime - January 2019 - December 2019

All Crime Plus ASB Breakdown



4. Reasons for recommendations

- Governing legislation and case law dictates that licensed vehicles must be clearly identified as such and in such a way to distinguish between taxis and phvs as well as private vehicles;
- Current best practice guidelines issued by the DfT indicate that some additional clearer form of identification as well as the licence plate is seen as best practice;
- The primary and overriding objective for the licensing authority must be to protect the public. The use of council and company livery clearly identifies that the vehicle is licensed by Portsmouth City Council and therefore provides reassurance and protection to members of the public using licensed vehicles and other road users;
- Evidenced 39% reduction in vehicle crime in Portsmouth as of September 2019;
- No evidence to suggest that removal of livery will prevent vehicle crime;
- Views expressed by Uber driver representatives are not necessarily reflective of all the licensed trade in Portsmouth;
- The ease of removal of magnetic signs leaves them vulnerable to theft and also to use on unlicensed vehicles. Previous experience of issuing magnetic signs brought about incidents of theft and signs were easily dislodged from vehicles;
- Removal of all livery would exacerbate problems with vehicles working outside of the area and indeed within the City. Customers would no longer be able to clearly identify Portsmouth licensed vehicles which will undoubtedly impact on the most vulnerable passengers and public reassurance of standards for vehicles licensed in Portsmouth;
- Substantial evidence from other licensing authorities to demonstrate that livery is a key safety measure adopted on an national basis;

Whilst the formal proposal as set out in this report is to retain the status quo, members may wish to authorise officers to amend the current wording so that the requirements are more clearly expressed.

However, If the Committee wished to offer some compromise to vehicle proprietors then consideration could be given to granting delegated authority to the Licensing Manager, in consultation with Legal Services, to re-word the vehicle conditions so that the main operator details shall be permanently affixed but if the proprietor undertakes bookings with other operators then that operator signage could be magnetic.

The Committee is also requested to reiterate its requirement for all licensed vehicles to display council livery on Portsmouth licensed vehicles.

5. Integrated impact assessment

An Integrated Impact Assessment is attached as **Appendix E** to this report. If the current policy remains as existing or is amended in accordance with the recommendations above, then no detrimental impact is envisaged. However, if the Committee wish to remove all conditions relating to the display of operator and Council livery then this will likely have a negative impact on crime and safety as well as regeneration, culture and the environment. The Committee will be required to consider and address those elements of the impact assessment.

6. Legal implications

The legal implications are embodied within this report.

7. Director of Finance's comments

There are no financial implications arising from this report.

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Signed by:

Licensing Manager

On behalf of Director of Culture, Leisure and Regulatory Services

Appendices:

Appendix A Representation by Uber Driver Representatives;

Appendix B GMB Union Views - Andrew Peters - Secretary GMB Brighton & Hove Taxi Section;

Appendix C Comments made by Licensing Authorities in response to use of magnetic signage, Council and Operator Signage;

Appendix D Summary of Responses by Licensing Authorities in respect of Operator and Council Livery Requirements;

Appendix E Integrated Impact Assessment (IIA)

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

.....
Signed by:
Chair of Licensing Committee

APPENDIX A**Representation by Uber Driver Representatives*****SUBMISSIONS AND ARGUMENT TO PCC LICENSING, WITH REGARD TO THE REMOVAL OF UNECESSARY AND OVERLY BURDENSOME LIVERY & SIGNAGE ON PRIVATE HIRE VEHICLES:***

We have already brought to the attention of the Licensing Manager and the Hackney Carriage/Private Hire Consultative Group Meeting that, in our opinions, **Section 9 of the Conditions of License for Private Hire Vehicles is creating a “Restraint of Trade” and has the anticompetitive effect of facilitating a “Market-Share Practice”**.

The said condition, and its interpretation by PCC Licensing, imposed that private hire vehicles display permanent Operator Signage, as well as the Council’s Corporate livery.

As of 03/10/2019, the Licensing Manager reviewed their interpretation and confirmed that the Operator Signage was no longer mandatory.

However, the council’s corporate livery is still required to be displayed in permanent form, and we believe that this facilitates a market-share practice between the local operators and the airport/executive operators.

This is due to the fact that the industry standard for airport/executive work requires that the cars are discreet in appearance (i.e. they display no signage/livery).

It is our understanding that the council can grant an exemption from **Section 9** for a private hire vehicle that wishes to take up work with an airport/executive operator, but it is prohibiting the said vehicle to take bookings from local operators unless it reverts to displaying the council’s corporate livery in permanent form.

Thus, the permanent form of the signage is making it impossible for drivers to serve both a local operator and an airport/executive operator at the same time, and as such a **“Market-Share Practice”** of the supply market is facilitated, and we believe that this is prohibited by the competition law. (**SEE REFERENCE 1 AT THE BOTTOM OF THIS DOCUMENT**).

It is also our understanding that the requirement for permanent signage **IS NOT IMPOSED BY STATUTE**, but rather the law grants the power to a local council to make the judgement **TO REQUIRE OR TO PROHIBIT such signage as they may consider REASONABLY necessary**. (**SEE REFERENCE 2 AT THE BOTTOM OF THIS DOCUMENT**).

Given that the said requirement is not imposed by law, but it is rather a judgment of the local council, **and that it has the restraining effect of a “Market-Share Practice”**, we believe that the permanent signage requirement is **NOT REASONABLY NECESSARY**.

We further draw your attention to the fact that the **Competition And Markets Authority** published specific guidance related to TAXI and PRIVATE HIRE regulation, and they have specified that such measures for signage may have an anticompetitive effect. (**SEE REFERENCE 3 AT THE BOTTOM OF THIS DOCUMENT**).

OUR FORMAL REQUEST:

With the aforementioned in mind, we request that the legal representative(s) of PCC aid the mediation of this matter, **in the form of providing a written response to us** (contact details provided in this document), and the relevant persons in the Licensing department and Licensing Committee, to clarify whether the said measures are in line with, or exceeding the legal requirements; AND if the legal requirements were exceeded, we would like to hear your solution to achieving compliance in resolving this matter.

We request that such a written response be made available at least fully 14 days prior to any PCC Hackney Carriage/Private Hire Consultative Group Meeting.

We are making our formal request, with what we believe to be substantiating supportive references, as we are wishing to resolve this matter on behalf of those whom we represent in the Trade, and for all other Self Employed Licensed drivers who do not want any **“Restraint of Trade” imposed on them, or facilitated “Market Share Practice” – either knowingly or unknowingly by those who would impose it.**

REFERENCES:

1. CHAPTER I PROHIBITION, Competition Act 1998, Chapter I, Section 2, Subsection (1) <http://www.legislation.gov.uk/ukpga/1998/41/section/2>
2. Local Government (Miscellaneous Provisions) Act 1976, Part II, Section 48, subsection (2) <https://www.legislation.gov.uk/ukpga/1976/57/section/48>
3. Regulation of taxis and private hire vehicles: understanding the impact on competition <https://www.gov.uk/government/publications/private-hire-andhackneycarriage-licensing-open-letter-to-local-authorities/regulation-of-taxis-andprivate-hirevehicles-understanding-the-impact-on-competition>

Submitted jointly by:

PETER SUTHERLAND – Trade Representative – Uber Drivers

KHALED HAMMAD – Trade Representative – Uber Drivers

MUGUREL ALIN COLTEA – Trade Associate & Uber Driver

APPENDIX B**GMB Union Views - Andrew Peters - Secretary GMB Brighton & Hove Taxi Section**

Dear Sir or Madam,

It has been brought to our attention that there are some Portsmouth private hire drivers who have unfortunately experienced break-ins to their licensed vehicles.

https://www.portsmouth.co.uk/news/crime/uber-and-taxi-drivers-at-breaking-point-over-vandalism-crisis-in-portsmouth-1-9120049?fbclid=IwAR0v_JYdHR8mXyPgS7YuWkQdfB5B4O7Hrp6X5P6ZMfcsSF5u1aWj2ykdiUQ

Because of this we understand that some of these drivers are asking for a change in the conditions of licensing for the display of Portsmouth City Council livery on the doors of the vehicles.

On the basis that we have numerous Portsmouth PHV's working in Brighton & Hove (under Uber via cross-border hiring) who never appear to work in Portsmouth we feel we have the right to make comments about this matter.

Firstly it is important to establish that once a vehicle is licensed as a PHV, or indeed a hackney carriage, it remains under that status until it is de-licensed.

In Brighton & Hove we have many PHV's (working mainly under Uber) who are not licensed by the local council, these cars are often many miles away from their respective Licensing Enforcement.

We have examples whereby they have purposely and illegally removed livery to work here incognito. I'm sure you will agree that public safety is paramount within the trade, this unacceptable practice must not be allowed to develop further.

It is extremely important for the public to be able to recognise their vehicle is a genuinely licensed PHV but also where the vehicle is licensed and the licence number, especially as this may be many miles away from where they are using the service.

Over the past two years the Brighton & Hove trade has spent a considerable amount of time & effort reporting incidents of the illegal practice of livery removal to various licensing authorities, including Portsmouth City Council.

I would like to state that as a Brighton & Hove hackney carriage proprietor myself I have also experienced a break-in on my vehicle so I know how distressing this can be. However since I started to display a (removable) sign in my taxi when it is left unattended this has never happened again.

As there are many Portsmouth PHV's working here in Brighton we consider that it would be a retrograde step if these vehicles were allowed to remove livery identification. Our experience is simple, once a PHV is out of sight of their respective licensing enforcement officers sadly they tend to bend & break rules.

So what is the solution? We would recommend that the council approves the use of a window sticker thus: "NO MONEY OR VALUABLES ARE LEFT IN THE VEHICLE" should any driver wish to display this.

I have provided an example of how this can be shown.



**NO MONEY OR VALUABLES
LEFT IN THIS VEHICLE**

We hope that this suggestion will be of assistance to Portsmouth licensed drivers

APPENDIX C

Comments made by Licensing Authorities in response to use of magnetic signage, Council and Operator Signage

Ashford Borough Council

Some clearer identification is, however, seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that the vehicle cannot be hired immediately through the driver, and secondly because it is quite reasonable (and in the interests of the travelling public) for a private hire vehicle operator to be able to state on the vehicle the contact details for hiring.

Barrow Borough Council

The council is currently consulting about livery. Current proposal is that hackneys will need an A3 magnetic sign with the plate number/Council logo on the front doors and will need to display the details of the Private Hire Operator, if they are working for one. Private hire vehicles will also need to display the firm they are working for.

Birmingham City Council

PH Operator signage to be displayed on magnetic signs, provided they meet the requirements. Semi-permanent door signs are NOT permitted to be affixed to magnets, they must be affixed using the adhesive backing in accordance with the conditions

Blackpool Council

Policy relates to private hire vehicles. PH vehicles must display on both rear passenger doors the message "licensed private hire vehicle not insured unless pre-booked" and this must be accompanied by the Council logo.

Bradford MDC

Use of magnetic livery is allowed in the following situations:

- 1) hackney carriage vehicles are authorised to use magnetic signage when they are working on a school contract run;
- 2) When a driver works for 2 companies. In this situation the Council must be aware that the driver works for two companies and both companies must be displayed on the drivers badge. The driver must establish which is their main operator and must display permanent signage for this.

Charnwood Council

No magnetic signs are acceptable. Magnetic signs may be allowed on a temporary car provided that the Council has given prior written approval.

Chelmsford Council

Council livery cannot be magnetic but company livery can be magnetic

Cheshire West and Chester Council

Use of magnetic livery is abused

Chichester District Council

Until approximately 6 months ago, Chichester used to issue either magnetic or adhesive doors signs in respect of private hire vehicles. However, due to a number of complaints being received alleging that these were not being displayed, we determined to issue only adhesive doors signs. Those who already have magnetic door signs are permitted to continue to use these.

Colchester Council

Change pending in policy to provide for full body wraps and permanent stickers only

Erewash Council

Applies to Private Hire vehicles only and the livery must display the company name, and "Private Hire Advanced Bookings Only"

Great Yarmouth Council

Both hackney carriage and private hire vehicles are required to display crests and private hire vehicles are required to display a sticker showing that the vehicle must be pre-booked.

Guildford Council

A full body turquoise colour livery, with permanent text on the front doors with council and vehicle licence identification for hackney carriages, and Door signage, to be permanently affixed to the front doors with council and vehicle licence identification and the word 'pre book only' for PHVs. Generally speaking, living close to Portsmouth, I see a number of Portsmouth licensed vehicles and I am always impressed with the levels of compliance for plates and signs. This is compared to our drivers who still think it is acceptable to take plates and signs off when they are not working as if 'their own' vehicle.

Halford Council

In respect of Private Hire Vehicles only - mandatory livery is by way of a sign displayed on both front doors of the vehicle indicating that the vehicle is licensed and contains the Council logo

Leicester Council

There is strict enforcement of council livery to ensure non-magnetic. Company livery is permitted and is a matter for the proprietor or operator to decide and magnetic signs are acceptable in those instances

Mid Sussex Council

Private hire vehicles have to display door signs stating "Advance Bookings Only"

Neath Port Talbot Council

Use of magnetic signage currently under review

Newcastle Council

Both Newcastle City Council hackney carriage and private hire vehicles are required to display an identification plate to the external rear of the vehicle and two numbered decals inside the vehicle, one to the windscreen the other two the nearside rear passenger door quarter light. The markings purely contain the vehicle licence numbers issued by the Authority. Magnetic not permitted for mandatory livery.

North East Lincolnshire Council

Magnetic signage not permitted on Council Livery

Norwich Council

We do not permit mandatory signage to be fitted magnetically, it must be stuck to the vehicle. This is to prevent either, abuse by licensed drivers easily moving the signage to an unlicensed vehicle, or theft of signage and abuse by criminals attempting to masquerade as legitimate licensed vehicles.

Renfrewshire Council

Magnetic advertising is not permitted as it could be removed, for example when the vehicle is parked and unattended. Policy says that materials used for advertising must be of a quality not easily defaced or detached.

Rochford Council

Magnetic livery is allowed if it is a temporary vehicle whilst original vehicle is being repaired

Rossendale Council

Only company livery is permitted to be magnetic

Rushcliffe Council

Council livery is in respect of Hackney Carriage Vehicles, Company livery for Private Hire Vehicles. No magnetic council livery

Rushmoor Council

Private Hire vehicles have to display signage that identifies the plate number, the name of the LA and states "Advance Booking Only"

South Ribble Council

Improvements to policy in respect of design and specification of livery for vehicles currently out for consultation

Southampton Council

Council conditions expressly preclude the use of magnetic livery under any circumstances

St Albans Council

Livery requirements relate to Hackney Carriage Vehicles. Reviewing use of magnetic signage

St Helens Council

At present the LA only ask for Operator livery but in the next few months they are changing policy to include Council branding

Stirling Council

Magnetic signage is permitted for company livery but not council livery

Stoke on Trent Council

Only where a vehicle works for 2 operators, but the main operator signs must be permanent, the second operator is magnetic

TfL

Do not allow the use of magnetic signage for PHVs and discourage the use of magnetic signs for taxis, however, in cases where campaigns are for a very short, time limited period (less than one week) they may be used

Wellingborough Council

Magnetic signage is not permitted on private hire vehicles but is permitted, subject to approval, on hackney carriages

Welwyn Hatfield Council

Mandatory livery requirements for vehicles is currently under review

West Berkshire Council

HCV mandatory only for door stickers and roof signs - Company advertising allowed for PHV and HCV - Council livery has to be permanently affixed, company advertising can be magnetic

Winchester Council

Currently reviewing policy and intend to consult on the mandatory requirement for council livery and to require permanent signage (ie no magnetic)

Woking Council

Mandatory requirement for livery relates to company livery. In respect of magnetic signage the Policy does not currently specify the material. However the Licensing Authority is currently in the process of changing this to disallow magnetic signage, and enforce the requirement of vinyl sticker signage.

This is due to a combination of issues such as drivers regularly being seen without them on the cars (due to a range of excuses from them forgetting to put them on, the signs falling or blowing off the cars, to being stolen) or the fact that a number of vehicles are now being produced with carbon fibre or bodywork of an alternative non-magnetic material.

Ultimately, this clearly identifies to us as to why magnets are not suitable and not appropriate. This initially went to Licensing Committee a few months ago. The proposal had the general support of the Councillors but they sought clarification over the enforcement procedure and so it is currently in the process of being rewritten in order to represent after the New Year.

APPENDIX D
Summary of Responses by Licensing Authorities in respect of Operator and Council Livery Requirements

A survey was undertaken by PCC Licensing Service with all licensing authorities in England, Wales and Scotland in November 2019 in respect of livery requirements on private hire and hackney carriage vehicles.

The following questions were posed:

1. Does your authority have a mandatory requirement for the display of livery on licensed private hire and hackney carriage vehicles?
2. If Yes, does this relate to either Council livery, company livery or both?
3. If Council or Company livery is required, is magnetic signage permitted?

The results of that survey were as follows:

Total Number of Councils who responded to survey	277 (Total 340 consulted)	81%
Total number of Councils that have a mandatory requirement for livery	176	64%
Total number of Councils that require Council livery	160	58%
Total number of Councils that require Company livery	93	34%
Total number of Councils that permit company livery	64	23%
Total number of Councils that DO NOT permit magnetic signage	101	36%
Total number of Councils that permit magnetic signage	104	38%