

|                               |   |
|-------------------------------|---|
| <b>Title of meeting:</b>      | Cabinet   |
| <b>Date of meeting:</b>       | Tuesday 9 <sup>th</sup> March 2021                                      |
| <b>Subject:</b>               | Clean Air Zone - Clean Air Fund Eligibility Criteria and Prioritisation |
| <b>Report by:</b>             | Tristan Samuels, Director of Regeneration                               |
| <b>Wards affected:</b>        | All   |
| <b>Key decision:</b>          | No  |
| <b>Full Council decision:</b> | No  |

---

## **1 Purpose of report**

- 1.1 Central Government has imposed a Ministerial Direction on the City Council to deliver a Class B Clean Air Zone (CAZ) (and other measures) to reduce levels of nitrogen dioxide to comply with at least the legal limit value in the shortest possible time.
- 1.2 The Clean Air Fund (CAF) measures are intended to support the CAZ by ensuring that particular groups of stakeholders who own or depend on non-compliant vehicles for business operations are not disproportionately impacted by the proposed interventions.
- 1.3 The purpose of this report is to outline the eligibility criteria for applicants for the CAF, and set out how applications will be prioritised to ensure those most affected receive support first.

## **2 Recommendations**

- 2.1 It is recommended that Cabinet approve the proposed eligibility criteria and prioritisation lists for determining CAF application outcomes as detailed in paragraphs 2.2 to 2.7 below.
- 2.2 Private Hire and Hackney Carriage applicants may be eligible for the financial incentive where they meet all of the following criteria:
  - a) Are the registered keeper and/or owner of a Private Hire or Hackney Carriage taxi/s that is/are non-compliant
  - b) The vehicle/s must have been licensed with Portsmouth City Council at a time between May 2020 and application.



- c) Use reasonable endeavours to continually licence the compliant vehicle/s with Portsmouth City Council for the next 3 years.
- d) Have not been in receipt of, are not in the process of applying for, and will not apply for, CAF incentives from another authority.

2.3 Bus and Coach, and HGV CAF applications may be eligible for the financial incentive where they meet all of the following criteria:

- a) Are a business that owns/leases and uses non-compliant vehicles
  - a. Bus and Coach: M3 - GVW over 5000kg and more than 8 seats in addition to the driver
  - b. HGV: N2 - GVW over 3500kg, N3 - GVW over 5000kg
- b) Must have owned or leased the vehicle/s for at least 12 months prior to application\*
- c) Must have been actively trading for more than 12 months and up to February 2020
- d) Must be able to evidence frequency of entry to the proposed Clean Air Zone boundary by the existing non-compliant vehicle/s to be upgraded (average 2 or more days per week), and frequency of entry to the Clean Air Zone by the upgraded compliant vehicle/s
- e) Must evidence the sale of any non-compliant vehicle/s that is/are being replaced through this fund
- f) Have not been in receipt of, are not in the process of applying for, and will not apply for, CAF incentives from another authority

*\*Exceptions may be considered for applicants who propose to replace an existing non-compliant vehicle model that cannot be retrofit with a non-compliant vehicle model that can be retrofit, as part of the CAF application.*

2.4 Applications for financial support for upgrading Buses and Coaches through the CAF will be prioritised based on how well they score in meeting the following criteria, which is listed in order of importance to achieving the grant's objective:

1. You will be prioritised if you are a small or medium size (0-249 employees), ahead of applicants representing large businesses (250+ employees)
2. You will be prioritised if you trade from either Portsmouth or on the Isle of Wight and your commercial operations would be detrimentally impacted or not possible without access to the Clean Air Zone, ahead of applicants who are registered and located outside of Portsmouth and Isle of Wight and/or have the ability to re-route commercial operations to avoid the CAZ.
3. You will be prioritised if the proportion of non-compliant vehicles in your total fleet limits the ability to rotate your fleet so that only your compliant vehicles use the CAZ, ahead of applicants who have a sufficient number/proportion of compliant vehicles in their fleet to make it possible to use them for CAZ use instead.
4. You will be prioritised if you can demonstrate that your business is not in administration, insolvent or has a striking-off notice being made



5. You will be prioritised based on your frequency of use of the CAZ, with higher frequency users be prioritised over those who infrequently use the CAZ, and especially whose use is less than 2 days per week on average.
6. You will be prioritised if not receiving funding would result in an impact on local young people, local older people, and local tourism, ahead of those who in not receiving funding would have no impact on these groups.
7. You will be prioritised if you have not been in receipt of other Government funding; ahead of those who have may have received Covid-19 Bus Service Support Grant for example
8. You will be prioritised where financial and business need can be proven, ahead of those who cannot demonstrate a financial or business need.
9. You will be prioritised if you are able to demonstrate a good maintenance record of vehicle can be evidenced, ahead of those who cannot demonstrate a good maintenance record.

2.5 Applications for financial support for upgrading HGVs through the CAF will be prioritised based on how well they score in meeting the following criteria, which is listed in order of importance to achieving the grant's objective:

1. You will be prioritised if you are a small or medium size (0-249 employees), ahead of applicants representing large businesses (250+ employees)
2. You will be prioritised if you trade/operate from an address in either Portsmouth or on the Isle of Wight and your commercial operations would be detrimentally impacted or not possible without access to the Clean Air Zone, ahead of applicants who are registered and located outside of Portsmouth and Isle of Wight and/or have the ability to re-route commercial operations to avoid the CAZ.
3. You will be prioritised if the proportion of non-compliant vehicles in your total fleet limits the ability to rotate your fleet so that only your compliant vehicles use the CAZ, ahead of applicants who have a sufficient number/proportion of compliant vehicles in their fleet to make it possible to use them for CAZ use instead
4. You will be prioritised if you can demonstrate that your business is not in administration, insolvent or has a striking-off notice being made
5. You will be prioritised if you regularly conduct commercial operations within the Clean Air Zone (two or more times per week)
6. You will be prioritised if you are a businesses who would be most adversely affected by the CAZ charge as a proportion of your business turnover (i.e. due to transportation costs as proportion of turnover, or dependence on deliveries as part of core business)
7. You will be prioritised if you are a businesses that provide hire or reward services to local SMEs, whose Portsmouth based client can support the application by demonstrating the need and business case for funding for that particular supplier
8. You will be prioritised where financial and business need can be proven, ahead of those who cannot demonstrate a financial or business need

9. You will be prioritised if you are able to demonstrate a good maintenance record of vehicle can be evidenced, ahead of those who cannot demonstrate a good maintenance record.
- 2.6 Grants can not be awarded retrospectively to vehicle upgrades being completed as part of the CAF scheme.
- 2.7 Non-compliant vehicles that are eligible for an exemption from the CAZ charge cannot also apply to the CAF scheme.
- 2.8 Delegated Authority is granted to the Cabinet Members for Environment & Climate Change and Traffic & Transport, to review and amend the eligibility criteria and prioritisation criteria following each round of funding, if uptake of the grant is low.

### **3 Background**

#### Ministerial Directions

- 3.1 Portsmouth City Council has been issued with four Ministerial Directions. These place a legally binding duty on the Council to undertake a number of steps to improve air quality in the city.
- 3.2 Ministerial Directions 1 – 3, issued between March and October 2018, required PCC to; undertake a Targeted Feasibility Study for two of the most heavily polluted roads in Portsmouth; undertake a retrofit programme for all commercial buses travelling through those two roads and; produce an Air Quality Plan to set out the case for delivering compliance with legal limits for NO<sub>2</sub> in the shortest possible time. The Outline Business Case (OBC) for this Plan was submitted in October 2019 and resulted in the issue of the fourth Ministerial Direction:
- 3.3 Ministerial Direction 4 (March 2020): The fourth Ministerial Direction required PCC to implement a Class B Clean Air Zone, and supporting measures, in Portsmouth as soon as possible and in time to bring forward compliance with legal limits for nitrogen dioxide to 2022.

#### Secured Funding

- 3.4 The CAF measures are intended to support the Clean Air Zone by ensuring that particular groups of stakeholders are not disproportionately impacted by the proposed interventions. This funding will be used to directly assist individuals representing three vehicle categories to switch to cleaner vehicles, and help normalise the use of cleaner vehicles in the local community.
- 3.5 Funding from the OBC has been awarded by government's Joint Air Quality Unit (JAQU) for each of the vehicle categories, including:

- £604,500 - with an additional £76,500 'stretch-funding' for Private Hire Vehicles and Hackney Carriages, including £1,500 and £4,000 for standard taxis and Wheelchair Accessible Vehicles (WAVs).
- £495,000 for buses and coaches, providing 33 x £15,000 grants; and,
- £576,000 for HGVs, providing 36 x £16,000 grants

### Request for Additional Funding

- 3.6 The Full Business Case (FBC), submitted in December 2020, requested additional funding to further support the CAF measures. This request was based upon the result of the consultation undertaken in July and August 2020, and ongoing engagement by officers. As anticipated, this work confirmed that the funding awarded by JAQU in response to the OBC was insufficient to meet expected demand. The anticipated exceedance of demand against the original funding awarded is particularly significant for Wheelchair Accessible Vehicles, bus and coaches, and HGVs, highlighting small and medium businesses. We have made the case for additional funding, but there is no guarantee this will be received.
- 3.7 The request for additional funding put forward in the FBC would, if approved, result in the following overall funds being available:
- £1,264,500 - for Private Hire Vehicles and Hackney Carriages, including £1,500 for standard taxis (263 in total) and £15,000 for Wheelchair Accessible Vehicles (WAVs; 58 in total).
  - £900,000 for buses and coaches, providing 60 x £15,000 grants; and,
  - £800,000 for HGVs, providing 50 x £16,000 grants
- 3.8 The FBC sets out how owners of Wheelchair Accessible Vehicles (WAVs) face significant upgrade costs to make their vehicles compliant. 42 out of the 58 non-compliant WAVs are owned and operated by individual owner operators. Of those which are owned or operated by more than one individual, almost all are small operations, generally with between 2-3 vehicles each. Therefore, the case is made that all WAV owners will be significantly impacted by the introduction of the CAZ.
- 3.9 WAV's provide an essential service in allowing disabled members of society partake in normal, day to day life. Disability is a protected characteristic under the Positive Action under Equality Act 2010, and so PCC are keen to ensure a smooth continuation of services for this group. Due to the higher upgrade costs and importance of ensuring that there is not a drop in the number of WAVs operating within the city, PCC are requesting grant funding to support all non-compliant Wheelchair Accessible Vehicles in upgrading their vehicles, with the amount requested covering the majority of the upgrade costs.

3.10 The concerns relating to the cost of upgrading WAVs significantly exceeding the level of funding being made available by JAQU, have been raised to the Secretary of State by four Local Authorities, including Transport for Greater Manchester, Birmingham, Sheffield, and Portsmouth City Council. The letter addressed (see **Appendix A**) outlines the shared concerns of the impact of Government Policy on the Hackney Carriage sector, and particularly with JAQU's guidance related to Clean Air Zones. The joint letter states that *"Without further consideration and support, the trade is clear that current policy may well threaten livelihoods and the sector as a whole and impoverish convenient and wheelchair accessible hackney carriage provision."* The letter identifies the causes of the trade's 'dynamic context' which is resulting in its 'unsustainable position'. These include; Government policy and guidance; legislative loopholes which enable local regulatory evasion and a resulting open market for private hire vehicles licensed elsewhere; competition from app-based private hire services; and the impact of COVID-19. Consequently, the joint letter calls for a serious review of the government approach, and asks the Secretary of State to assess the case for funding support in light of the wider implications for the trade.

#### Eligibility Criteria, Prioritisation and Accessibility

- 3.11 The expected demand for the CAF measures has been reflected in the formulation of the eligibility criteria and prioritisation factors, in order to help meet the CAF's primary objective.
- 3.12 The COVID-19 impact and lockdown has also been recognised in the formulation of this eligibility criteria and prioritisation factors. Notably this is reflected, for example, in the use of February 2020 as a cut-off date for an active trading and business operation. Discretion will be applied in assessing applications where business operation has been significantly affected since March 2020, but where reasonable recovery plans are demonstrated.
- 3.13 To ensure the funding is accessible, steps being undertaken alongside the setting of eligibility criteria and prioritisation listing includes:
- Engagement with relevant stakeholders from the affected groups, trade associations and other Local Authorities who are implementing a CAZ and CAF
  - Dedicated website to channel communication and provide up to date FAQs and useful links <https://travel.portsmouth.gov.uk/schemes/clean-air-fund-financial-support-for-businesses/>
  - Request to central government to increase funding for Wheelchair Accessible Vehicles, and the number of grants available for buses and coaches (from 33 to 60), and HGVs (from 36 to 50)
  - Contact with local car sales suppliers and vehicle retrofit suppliers to identify suitable vehicle upgrade support channels, methods and scheme discounts
  - Design of online pre-registration form and online application form

- Plans to adjust and update the funding package distribution design should initial demand for grants prove to be low (i.e. to arrange to offer an alternative interest-free finance loan as an alternative option to grants)

3.14 The eligibility criteria and prioritisation factors outlined in this paper have been prepared in consideration with other local authorities, consultation, and engagement with the trades, whilst ensuring that they are in line with Portsmouth's unique and changing situation. A summary of eligibility criteria and prioritisation factors by other local authorities can be found in **Appendix B** of this paper.

### Application Launch and Rounds

3.15 The funding application is due to launch on Friday 19<sup>th</sup> March 2021, prior to purdah, and will remain open until all funding is spent, with the aim of completion where possible before the introduction of the CAZ due to take place in November 2021.

3.16 Funding is planned to be organised in rounds, including:

- Round 1: 19th March - 19th April (4 weeks), with outcomes confirmed 1 week later.
- Round 2 (subject to remaining funding): 19th April - 31st May (6 weeks), with outcomes confirmed a week later.
- Round 3: Should there still be funds remaining after the first two rounds, a third round is likely to be opened in June and would remain open until all rolled-over funds have been distributed.

3.17 Funding rounds for bus/coach and HGV grants will be set and publicised in order to:

- Encourage prompt applications;
- Offer assessors a window for undertaking a comparative assessment of the level of likely detrimental impact amongst and between applicants, through a process of scoring based on the prioritisation factors; and,
- Identify (and adjust if necessary) the standard and thresholds to which this need should be assessed.

3.18 The funding rounds arrangement will mean that funding will not simply be provided on a 'first come first served basis'. All applications which are submitted in a particular round will be assessed against one another in how they meet the criteria, and to what extent they should be prioritised against other applications based on the prioritisation factors. While applications will not be awarded on a 'first come first served' basis, prompt applications will, nevertheless, be incentivised by the advantage created through successfully submitting an application in the earlier rounds.

- 3.19 Initially, applications for bus/coach and HGV grants will be permitted to cover up to 3 vehicles per applicant. This number has been informed by known non-compliant fleet size ranges confirmed through consultation and engagement, as well as the aim to ensure fair access and distribution amongst applications. Should funding remain available after Round 1, the amount of grants to be available per applicant will be reviewed and may be revised.
- 3.20 Applications for taxi grants will not be limited in the number of non-compliant licensed vehicles that can be applied for per applicant. However, the need to limit the number would be reviewed after each round. Taking this approach should not detrimentally effect any particular group's receiving of a CAF grant, based on the current scenario whereby all licensed non-compliant vehicles can be supported by the funding.

## **4 Eligibility Criteria**

### Private Hire and Hackney Carriage

- 4.1 An eligibility criteria has been composed for the Private Hire and Hackney Carriage CAF measure. Responses to the July 2020 Public Consultation from Private Hire and Hackney Carriage drivers indicated support for an eligibility criteria as opposed to a first-come, first served system. 69% of respondents opposed a first-come, first served system, with 16% supporting it and 15% neither supporting nor opposing.
- 4.2 The proposed eligibility criteria for Private Hire and Hackney Carriage applicants is as follows:
- Applicants may be eligible for the financial incentive where they meet all of the following criteria:
    - a) Are the registered keeper and/or owner of a Private Hire or Hackney Carriage taxi/s that is/are non-compliant
    - b) The vehicle/s must have been licensed with Portsmouth City Council at a time between May 2020 and application.
    - c) Use reasonable endeavours to continually licence the compliant vehicle/s with Portsmouth City Council for the next 3 years.
    - d) Have not been in receipt of, are not in the process of applying for, and will not apply for, CAF incentives from another authority.
- 4.2.1 Eligibility criteria 'a' will ensure that applications are only made to upgrade vehicles that will be charged for entering the CAZ.
- 4.2.2 Eligibility criteria 'b' will ensure that applicants for the CAF grant are those who are most dependent on operating in Portsmouth and within the CAZ boundary. Engagement with the trade has indicated that the majority believe the funding should only be available to applicants licensed with Portsmouth City Council. The May 2020 date has been used as this was the latest point at which both Private Hire and

Hackney Carriage licences had been renewed: 31 January, and 30 April respectively. Using May 2020 as the earliest point ensures that applicant vehicles have recently been used as taxis within Portsmouth. This criteria point also helps prevent applications being submitted (whether made by former drivers, operators, car sales or leasing companies) for older unused non-compliant vehicles.

- 4.2.3 Eligibility criteria 'c' aims to ensure that the compliant vehicle/s will primarily be driven in Portsmouth as opposed to another local authority area<sup>1</sup>. It also aims to ensure that the funding will be used to full effect during the CAZ lifetime, benefitting the local economy and environment. It discourages the resale of the compliant vehicle within the 3 years, and is designed to prevent fraudulent use of the funds.
- 4.2.4 A business case will not be requested in the application. However, in situations where further information may be considered necessary to determine the current and forecasted financial stability of the business, further engagement with the applicant will be undertaken. This would be in addition to assessing the relevant answers provided in the application, which will be referenced too in the T&Cs. Should the grant recipient go on to sell the new/upgraded vehicle/s within the 3 year period, the recipient may be required to return part or all of the grant money, with ownership to be monitored throughout the CAZ lifetime. Similarly, the eligibility criteria's wording makes it clear that drivers should be licensed with PCC for 3 years after receiving the money. As raised by members of the PCC's licensing committee, it is important to include this in order to prevent fraudulent use of the funds in the money not being used for its intended purpose. Relevant legally binding conditions within the grant Terms & Conditions will include such wording as follows:

*"Where the Council finds that the Applicant is in breach of this Agreement, including, (but not limited to), fraudulent or inaccurate applications, the Council may seek recovery of the Grant Funding and may bring legal proceedings against the legal owner and/or Registered Keeper and/or revoke the Taxi Vehicle Licence or PHV Licence of the Taxi or PHV referenced in the Application."*<sup>2</sup>

- 4.2.5 Eligibility criteria 'd' will ensure that the funding is available to those most in need locally, and deter applicants who may be eligible to apply for similar funding from another local authority and who could gain a

---

<sup>1</sup> Similar wording is including in Southampton City Council's established taxi incentive scheme: *The new vehicle will remain licensed in Southampton under the same plate number for three years with the same proprietorship* <https://www.southampton.gov.uk/environmental-issues/pollution/air-quality/concessions/>

<sup>2</sup> Example wording taken from Birmingham City Council's CAF T&Cs page <https://www.brumbreathes.co.uk/info/27/financial-incentives/2/clean-air-zone-1/5>

competitive advantage as a result. This will be included as a condition within the grant Terms & Conditions.

### Bus and Coach and HGV

- 4.3 The proposed eligibility criteria for Bus and Coach applicants, and HGV applicants is as follows:
- Applicants may be eligible for the financial incentive where they meet all of the following criteria:
    - a) Are a business that owns/leases and uses non-compliant vehicles
      - a. Bus and Coach: M3 - GVW over 5000kg and more than 8 seats in addition to the driver
      - b. HGV: N2 - GVW over 3500kg, N3 - GVW over 5000kg
    - b) Must have owned or leased the vehicle/s for at least 12 months prior to application\*
    - c) Must have been actively trading for more than 12 months and up to February 2020
    - d) Must be able to evidence frequency of entry to the proposed Clean Air Zone boundary by the existing non-compliant vehicle/s to be upgraded (Average 2 or more days per week), and frequency of entry to the Clean Air Zone by the upgraded compliant vehicle/s
    - e) Must evidence the sale of any non-compliant vehicle/s that is/are being replaced through this fund
    - f) Have not been in receipt of, are not in the process of applying for, and will not apply for, CAF incentives from another authority

*\*Exceptions may be considered for applicants who propose to replace an existing non-compliant vehicle model that cannot be retrofit with a non-compliant vehicle model that can be retrofit, as part of the CAF application.*

- 4.3.1 Eligibility criteria 'a' will ensure that applications are only made to upgrade vehicles that will be charged for entering the CAZ.
- 4.3.2 Eligibility criteria 'b' will ensure that applicants have not purchased a non-compliant vehicle for the sole purpose of accessing the fund to improve and sell on the vehicle at a higher price, or to sell and be able to afford a compliant vehicle., Exceptions may be considered for applicants who propose to replace a non-compliant vehicle model that cannot be retrofit with a non-compliant vehicle model that can, as part of their CAF application. As with all applicants' associated transactions, however, this exchange must not take place prior to application submission and funding approval.
- 4.3.3 Eligibility criteria 'c' will ensure that applicants have been established and trading, to provide reassurance that the vehicles will be run for their intended purpose, and to help in providing records of previous entry to

the CAZ, despite the possible temporary impact of COVID-19 to trading from March 2020.

- 4.3.4 Eligibility criteria 'd' is required to check that applicants will be willing to provide records, on demand, of entry to the CAZ by the existing vehicle to support the application, and by the upgraded vehicle supported by the fund, including through telematics, client contracts, or records of orders, for example. This will be included as a condition within the grant Terms & Conditions and/or Contract.
- 4.3.5 Eligibility criteria 'e' is required to ensure that the fund is used for its intended purposes; to make it possible to bring forward the renewal date of a non-compliant vehicle and reduce the likelihood of the non-compliant vehicle from being used in the CAZ in future. This will also help to avoid giving an applicant a competitive advantage by using the fund to increase their fleet rather than replace a vehicle.
- 4.3.6 Eligibility criteria 'f' will ensure that the funding is available to those most in need locally, and deter applicants who may be eligible to apply for similar funding from another local authority and who could gain a competitive advantage as a result. This will be included as a condition within the grant Terms & Conditions.

## **5 Prioritisation factors**

- 5.1 Alongside the eligibility criteria, prioritisation factors will be in place during the application process.
- 5.2 The extent to which prioritisation would need to be applied in assessing applications is dependent upon the demand for funding. However, from the outset, it has been clear and publicised that there will not be sufficient funding available to support all individuals and business affected by the CAZ. In such instances, a prioritisation list will help ensure that the funding is going to those most in need, and to determine the standards and thresholds by which such 'need' is assessed.
- 5.3 Prioritisation for PHV and Hackney Carriage applicants is not required as, based on the current level of non-compliant vehicles, the funding available is sufficient to provide access to grants to all licensed non-compliant PHVs and Hackney Carriages<sup>3</sup>.

---

<sup>3</sup> In May 2020, registered non-compliant PHV and taxi PCC licenses reduced significantly to 320 vehicles, from 447 in October 2019. This level of reduction in licenses is understood to be largely due to COVID-19 and the associated lockdown, where a number of vehicle licenses were temporarily suspended. The number of non-compliant vehicles with PCC licenses only exceeded this level in July 2020, with a total of 351 vehicles having active PCC licenses. Since August 2020, the total number has not exceeded 321. When including the 'stretch-funding' conditionally approved by JAQU, 98% of the 351 non-compliant taxis and Wheelchair Accessible Vehicles registered in July 2020 (the highest level since pre-COVID-19) would be able to access funding. The fact of at least 98% of non-compliant vehicle owners being supported by this fund is dependent on the assumption that; for those licensees who by January 2021 have not yet returned to

- 5.4 The prioritisation lists will be used to assess the strength of a funding application, and discretion will be applied in assessing each application with regards to how well the application meets the priorities against other applications submitted in the same round.
- 5.5 Follow up engagement with applicants will provide an important opportunity to further establish this need and identify any other measures that can be implemented by individuals and businesses before and instead of receiving CAF funding.

Bus and Coach Prioritisation:

- 5.6 Applications will be prioritised based on how well they score in meeting the following criteria, which is listed in order of importance to achieving the grant's objective:
1. You will be prioritised if you are a small or medium size (0-249 employees), ahead of applicants representing large businesses (250+ employees)
  2. You will be prioritised if you trade/operate from an address in either Portsmouth or on the Isle of Wight and your commercial operations would be detrimentally impacted or not possible without access to the Clean Air Zone, ahead of applicants who are registered and located outside of Portsmouth and Isle of Wight and/or have the ability to re-route commercial operations to avoid the CAZ.
  3. You will be prioritised if the proportion of non-compliant vehicles in your total fleet limits the ability to rotate your fleet so that only your compliant vehicles use the CAZ, ahead of applicants who have a sufficient number/proportion of compliant vehicles in their fleet to make it possible to use them for CAZ use instead
  4. You will be prioritised if you can demonstrate that your business is not in administration, insolvent or has a striking-off notice being made
  5. You will be prioritised based on your frequency of use of the CAZ, with higher frequency users be prioritised over those who infrequently use the CAZ, and especially whose use is less than 2 days per week on average
  6. You will be prioritised if not receiving funding would result in an impact on local young people, local older people, and local tourism, ahead of those who in not receiving funding would have no impact on these groups
  7. You will be prioritised if you have not been in receipt of other Government funding; ahead of those who have may have received Covid-19 Bus Service Support Grant for example
  8. You will be prioritised where financial and business need can be proven, ahead of those who cannot demonstrate a financial or business need.

---

trading since before COVID-19, relicensing their vehicles with PCC again would be financially unviable and/or not in compliance with PCC PHV and taxi licensing restrictions. Meanwhile, it is understood that any drivers who were previously leasing a non-compliant vehicles before suspending trading, are likely to lease a compliant vehicle should they return to trading.

9. You will be prioritised if a good maintenance record of vehicle can be evidenced, ahead of those who cannot demonstrate a good maintenance record.
- 5.6.1 Prioritisation factor '1' recognises that small and medium enterprises (as opposed to larger businesses) are likely to be most negatively and directly impacted by the CAZ charge.
- 5.6.2 Prioritisation factor '2' will ensure that the funding is available to local businesses who would be most affected by the charge due to use of the zone for commercial operations and being limited in making alternative arrangements that avoid the zone. The prioritisation of businesses registered and located on the Isle of Wight has been put in place to minimise the impact of the CAZ on the Isle of Wight's economy, as has been raised in concern by businesses that are reliant on the crossing from Portsmouth.
- 5.6.3 Prioritisation factor '3' recognises that businesses with a low percentage of compliant vehicles may not have the scope to only use compliant vehicles within the CAZ. Comparatively, those with a higher percentage of compliant vehicles may be able to ensure that only those vehicles are used for routes through the boundary.
- 5.6.4 Prioritisation factor '4' will ensure that the funding is provided to those businesses that are likely to continue trade throughout the expected lifetime of the CAZ. While a business case will not be requested in the application. However, in situations where further information may be considered necessary to determine the current and forecasted financial stability of the business, further engagement with the applicant will be undertaken. This would be in addition to assessing the relevant answers provided in the application, which will be referenced to in the T&Cs
- 5.6.5 Prioritisation factor '5' will help prioritise those applicants who are using the CAZ frequently enough to require the investment of an upgrade, above those who will be less affected by the CAZ charge due to infrequency of use, or can otherwise absorb the CAZ charge costs or any necessary vehicle upgrades within existing budgets.
- 5.6.6 Prioritisation factor '6' will ensure that these groups are not negatively impacted by the reduction of services or increase in charges.
- 5.6.7 Prioritisation factor '7' will ensure that priority is given to applicants that have received less government support recently, especially during the COVID-19 lockdown. These applicants are more likely to have seen a slow-down to their natural fleet replacement schedule.

- 5.6.8 Prioritisation factor '8' allows the individual evaluation of cases that may not meet all of the other factors but should be considered in regards of the main objective of the grant.
- 5.6.9 Prioritisation factor '9' will provide reassurance of good use of the funds by applicants who will maintain the new upgraded vehicle in good condition, and/or that installation of retrofit technology will not be compromised by a poorly maintained vehicle, or that the retrofitted vehicle's roadworthiness life span will not compromise the effectiveness of, or be outlived by, the retrofit technology.

### HGV Prioritisation

- 5.7 Applications will be prioritised based on how well they score in meeting the following criteria, which is listed in order of importance to achieving the grant's objective:
1. You will be prioritised if you are a small or medium size (0-249 employees), ahead of applicants representing large businesses (250+ employees)
  2. You will be prioritised if you trade/operate from an address in either Portsmouth or on the Isle of Wight and your commercial operations would be detrimentally impacted or not possible without access to the Clean Air Zone, ahead of applicants who are registered and located outside of Portsmouth and Isle of Wight and/or have the ability to re-route commercial operations to avoid the CAZ.
  3. You will be prioritised if the proportion of non-compliant vehicles in your total fleet limits the ability to rotate your fleet so that only your compliant vehicles use the CAZ, ahead of applicants who have a sufficient number/proportion of compliant vehicles in their fleet to make it possible to use them for CAZ use instead
  4. You will be prioritised if you can demonstrate that your business is not in administration, insolvent or has a striking-off notice being made
  5. You will be prioritised if you regularly conduct commercial operations within the Clean Air Zone (two or more times per week)
  6. You will be prioritised if you are a businesses who would be most adversely affected by the CAZ charge as a proportion of your business turnover (i.e. due to transportation costs as proportion of turnover, or dependence on deliveries as part of core business)
  7. You will be prioritised if you are a businesses that provide hire or reward services to local SMEs, whose Portsmouth based client can support the application by demonstrating the need and business case for funding for that particular supplier
  8. You will be prioritised where financial and business need can be proven, ahead of those who cannot demonstrate a financial or business need
  9. You will be prioritised if a good maintenance record of vehicle can be evidenced, ahead of those who cannot demonstrate a good maintenance record.



- 5.7.1 Prioritisation factor '1' recognises that small and medium businesses (as opposed to larger businesses) are likely to be most negatively and directly impacted by the CAZ charge.
- 5.7.2 Prioritisation factor '2' will ensure that the funding is available to local businesses who would be most affected by the charge due to use of the zone for commercial operations and being limited in making alternative arrangements that avoid the zone.
- 5.7.3 Prioritisation factor '3' recognises that businesses with a low percentage of compliant vehicles may not have the scope to only use compliant vehicles within the CAZ. Comparatively, those with a high percentage of compliant vehicles may be able to ensure that only those vehicles are used for routes through the boundary.
- 5.7.4 Prioritisation factor '4' will ensure that the funding is provided to those businesses that are likely to continue trade throughout the expected lifetime of the CAZ. In situations where further information may be considered necessary to determine the current and forecasted financial stability of the business, further engagement with the applicant will be undertaken. This would be in addition to assessing the relevant answers provided in the application, which will be referenced to in the T&Cs
- 5.7.5 Prioritisation factor '5' will help prioritise those applicants who are using the CAZ frequently enough to require the investment of an upgrade, above those who will be less affected by the CAZ charge due to infrequency of use, or can otherwise absorb the CAZ charge costs or any necessary vehicle upgrades within existing budgets.
- 5.7.6 Prioritisation factor '6' will ensure that businesses most negatively financially impacted by the CAZ charge are prioritised with the CAF measures.
- 5.7.7 Prioritisation factor '7' will ensure that businesses providing services to SMEs are not negatively impacted, and therefore that this negative impact is not passed down to the SMEs.
- 5.7.8 Prioritisation factor '8' allows the individual evaluation of cases that may not meet all of the other factors but should be considered in regards of the main objective of the grant.
- 5.7.9 Prioritisation factor '9' will provide reassurance of good use of the funds by applicants who will maintain the new upgraded vehicle in good condition, and/or that installation of retrofit technology will not be compromised by a poorly maintained vehicle, or that the retrofitted

vehicle's roadworthiness life span will not compromise the effectiveness of, or be outlived by, the retrofit technology.

## 6 Retrospective Funding

- 6.1 Retrospective funding would allow individuals to make an application for a non-compliant vehicle that has been recently retrofitted or replaced and is now compliant with the CAZ emission standards.
- 6.2 Retrospective funding has not been made available by most other Local Authorities. Southampton City Council did not make retrospective funding available for their Low Emission Taxi Incentive scheme; similarly BathNES do not allow retrospective requests for their CAF incentives. Birmingham City Council have allowed retrospective funding in some instances, where the vehicle was purchased after 10/09/18 (the date that they formally announced introduction of their CAZ) and is either electric/ULEV taxi or a fully electric or long range plug-in hybrid.
- 6.3 It is recognised that individuals or businesses who have taken proactive measures to improve their vehicles' emissions standards would not welcome feeling 'penalised' by taking such positive local actions and being ineligible for receive the grant funding as a result. Furthermore, it is appreciated that as a direct consequence of such proactive investment decisions, those individuals and businesses may in the short term be in a relatively less healthy financial position, when compared with those who have not yet made such investments and are therefore eligible for the grant support.
- 6.4 Nevertheless, the main objective of the CAF measures is to help those *most* affected by the CAZ charge, and to do this so that the CAZ can help achieve air quality objectives in the shortest possible time. For the purpose of meeting these objectives, individuals and businesses who have been in a financial position to make the business decision to upgrade non-compliant vehicles to compliant vehicles, and particularly to ULEVs, will have to be assumed as less likely to fall into the category of 'most affected by the CAZ', and support for these parties cannot be viewed as imperative in order to achieve the wider CAZ objectives.
- 6.5 Allowing retrospective funding requests may lead to funding not reaching all those most affected by the CAZ charge. Supporting those most affected must remain the core objective of the funds in support of the wider CAZ scheme objective; to reduce levels of nitrogen dioxide to comply with at least the legal limit value in the shortest possible time, ensuring that particular groups of stakeholders who own or depend on non-compliant vehicles for business operations are not disproportionately impacted by the proposed interventions.
- 6.6 It is recommended that awarding grants retrospectively to vehicle upgrades being completed is not permitted as part of this CAF scheme.

- 6.7 All endeavours shall be made in official communication and engagement channels that applicants must submit and receive approval of their application before upgrading vehicles.

## 7 Other support available for CAZ non-compliant vehicles

- 7.1 Exemptions for the lifetime of the CAZ will be available to some non-compliant vehicle groups that would otherwise be charged for travelling in the CAZ. Additionally, sunset periods are available to some non-compliant vehicle groups for a set time-period after the CAZ has launched.
- 7.2 Exemptions and sunset periods will be in place by the CAZ launch date, and were agreed by the decision of this cabinet on Tuesday 1<sup>st</sup> December 2020
- 7.3 Recognising that the main objective of the CAF measures are to help those *most* affected by the CAZ charge, it is recommended that individuals or businesses cannot apply for CAF funding for vehicles that are eligible for exemptions for the lifetime of the CAZ.
- 7.4 It is recommended that cabinet approve that vehicles that are eligible for an exemption cannot also apply for CAF funding.

## 8 Reasons for recommendations

- 8.1 It is recommended that the proposed eligibility criteria and prioritisation factors, as set out in **paragraphs 2.2 - 2.5** are implemented to ensure that the Clean Air Fund measures are distributed to those most negatively impacted by the Clean Air Zone charges.
- 8.2 It is **recommended that retrospective funding is not made available**, as this is likely to undermine the intended purpose of the CAF measures to help those most affected by the CAZ charge, and compromise PCC's ability to deliver on this Ministerial Directive; to reduce levels of nitrogen dioxide to comply with at least the legal limit value in the shortest possible time.
- 8.3 It is **recommended that non-compliant vehicles that are eligible for an exemption from the charge for the lifetime of the CAZ cannot also apply for CAF funding**, as this will likely undermine the intended purpose of the CAF measures.
- 8.4 It is **recommended that delegated authority is provided to the Cabinet Members for Environment & Climate Change and Traffic & Transport to review and amend the eligibility criteria and prioritisation criteria**, following each round of funding, if uptake of the grant is low; this will allow for the criteria to be changed quickly to allow for funds to be completely distributed

## 9 Legal implications

- 9.1 On 24 December 2020 the UK and EU reached an agreement in principle which culminated in the 'UK-EU Trade and Cooperation Agreement' ("the Trade Agreement"). At the same time, the UK government enacted secondary legislation, which revoked the old EU State Aid rules in the UK with effect from 31 December 2020 (subject to the provisions of the Northern Ireland Protocol). However, the UK remains committed to applying the new Subsidy Control principles set out in the Trade Agreement.
- 9.2 In addition to the above, the UK is subject to additional commitments on subsidy control arising from the UK's membership of the World Trade Organisation. Lastly, the UK has signed Free Trade Agreements with other countries and some of these agreements contain provisions on subsidies which must all be taken into before a decision to award any subsidy is taken.
- 9.3 Based on the information set out above, and the fact that a cap of 3 bus/coach and HGV grants per applicant is proposed, it is not expected that any funding to a beneficiary will exceed the new "*de minimis*" threshold of 320,000 Special Drawing Rights (equivalent to around £334,000 as at 25 February 2021) over a three-year period under the Trade Agreement. However, it is advised that Legal Services is contacted in the event that the said threshold is likely to be neared or exceeded.
- 9.4 It is worth noting that the Department for Business, Energy & Industrial Strategy (BEIS) has launched a consultation on its proposed new approach to Subsidy Control in the UK which may result in new regime on Subsidy Control being introduced. It is, therefore, important to regularly monitor the rules and legislation as this may directly affect our ability to grant this funding.
- 9.5 It is also anticipated that grant agreements will contain relevant clauses which will allow the Council to reclaim the grant funding if it was deemed that the funding was granted not in accordance with the Subsidy Control rules (as may be amended from time to time) in the UK.
- 9.6 With regards to eligibility criteria, the Council needs to ensure that the proposed eligibility criteria are fair, proportionate and reasonable in these particular circumstances and that they are not directly or indirectly discriminatory in order to comply with its public sector equality duty under the Equality Act 2010.

## 10 Director of Finance's comments

- 10.1 Funding from the Outline Business Case has been awarded by the Joint Air Quality Unit for each of the vehicle categories, including £604,500 for Private Hire Vehicles and Hackney Carriages, £495,000 for buses and coaches and £576,000 for HGVs. Due to the likelihood of applications for HGV, bus and coach grants exceeding the funding available it is necessary to outline our approach to prioritisation. The eligibility criteria and prioritisation factors

outlined in this paper have been prepared in consideration with other local authorities, consultation, and engagement with the trades. Should our request for additional funding in the Full Business Case be successful, the requirement to prioritise eligible applications will be reduced.

.....  
Signed by:

**Appendices:**

- Appendix A - Join letter from Local Authorities to Secretary of State
- Appendix B - Eligibility Criteria and Prioritisation adopted by other Local Authorities
- Appendix C - Clean Air Fund Summary Report
- Appendix D - Distributional Impact Assessment
- Appendix E - Financial Incentives other Local Authorities are offering

**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:

| <b>Title of document</b>  | <b>Location</b>   |
|---|---|
| Local Air Quality Plan- Progress Update (Cabinet 09/0919)   | <a href="https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4346&amp;Ver=4">https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4346&amp;Ver=4</a>   |
| Local Air Quality Plan- Outline Business Case (Cabinet 29/10/2019)  | <a href="https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4402&amp;Ver=4">https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4402&amp;Ver=4</a>   |
| Clean Air Zone Consultation Feedback (Cabinet 06/10/2020)   | <a href="https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4537&amp;Ver=4">https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4537&amp;Ver=4</a>   |
| Clean Air Zone- Exemptions, Sunset Periods and Hours of Operation (Cabinet 01/12/20)                                      | <a href="https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4620&amp;Ver=4">https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=126&amp;MId=4620&amp;Ver=4</a>   |
| Hackney Carriage and Private Hire Matters- Amendments to the Statement of Licensing Policy (Licensing Committee 18/12/20) | <a href="https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=125&amp;MId=4654&amp;Ver=4">https://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=125&amp;MId=4654&amp;Ver=4</a>   |
| Clean Air Fund Guidance (DEFRA, March 2018)   | <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693239/clean-air-fund-gov-resp-section2-separated.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693239/clean-air-fund-gov-resp-section2-separated.pdf</a> |
| Clean Air Zone Framework (DEFRA, February 2020)   | <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863730/clean-air-zone-framework-feb2020.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863730/clean-air-zone-framework-feb2020.pdf</a>                     |

|                      |   |
|----------------------|---|
| Environment Act 1995 | <a href="http://www.legislation.gov.uk/ukpga/1995/25/contents">http://www.legislation.gov.uk/ukpga/1995/25/contents</a> |
|----------------------|---|

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

.....  
Signed by