Portsmouth CITY COUNCIL

Decision maker: Cabinet Member for Traffic and Transportation

Subject: Private Hire Vehicles (PHVs) in bus lanes

Report by: Nicola Waight

Wards affected: All

Key decision (over £250k): No

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1. Purpose of report

1.1 In response to a petition by Private Hire Vehicle (PHV) drivers to be allowed to use bus lanes, this report has been requested by the Cabinet Member for Traffic and Transportation. It discusses options for allowing PHVs in bus lanes within Portsmouth.

2. Recommendations

,2.1 That based on information within this report (sections 5,6,7,10 and 13) particularly the stakeholder responses and the safety record of taxis and PHVs within Portsmouth, that the Cabinet Member retains bus lanes for buses, bicycles and hackney cabs only.

3. Alternative options

3.1 Grant approval for PHVs to drive in bus lanes (only those specifically registered with the council for this purpose) when camera enforcement of bus lanes is operational. This would be for a trial period in a trial area (see Appendix A for details). Should the Cabinet Member decide to proceed with a trial, it is recommended that a monitoring report should be provided to Cabinet at the end of the trial period to enable them to make a decision on how to proceed, for example with further lanes to be added or the scheme to be withdrawn. Details of the monitoring report can be found in 8.7.

3.2 Allow PHVs in all Portsmouth bus lanes (except DfT specified "special roads"). A monitoring report should be provided to Cabinet at the end of a specified period to enable review.

4. Background

4.1 *History of the paper*

4.1.1 At the request of the Cabinet Member for Traffic and Transportation, a paper was brought to T&T on this matter on 22 March 2011. The recommendation at that time was for the Cabinet Member to consider the options:
a) Do nothing
b) Approval for PHVs to drive in bus lanes
c) Approval for PHVs to drive in bus lanes when camera enforcement of bus lanes is operational

4.1.2 The 2011 report to T&T attracted objections from several members of Portsmouth Cycle Forum and Hampshire Constabulary. The main objections raised regarding the introduction of PHVs into bus lanes were:

- Their introduction would lead to congestion within the city and impact on the punctuality of bus services;
- Safety of cyclists;
- Objection by the police during statutory consultation as the introduction would not be based on casualty reduction principles;
- Wider abuse of lanes by other ineligible motorists.

4.1.3 The decision made at that T&T was: That following consideration of this report, the Cabinet Member noted the update on progress made to date on the camera enforcement project and approved, in principle, option B (approval for PHVs to drive in bus lanes) subject to funding and a future Traffic Regulation Order on the inclusion of PHVs in bus lanes in Portsmouth.

4.1.4 The camera enforcement of bus lanes project has suffered delays and therefore, this recommendation has not been progressed

4.1.5 A petition of 1830 signatures was submitted to the Council on 13 June 2014 as follows:
"We petition Portsmouth Local City Council to permit Portsmouth private hire cars to use the local bus lanes as a direct result of recent changes to the M275 and associated park and ride scheme. The residents of Portsmouth deserve to get to their destination on time and not sat in traffic jams; the private hire taxi drivers of Portsmouth deserve to earn a minimum wage also. Cars sat in traffic unnecessarily cause pollution to people in the local community as well as globally resulting in health issues which can be simply reduced through this initiative."

4.1.6 The Assistant Head of Service for Transport responded to this petition on 25 July 2014 and raised the issue for the attention of the Cabinet member for Traffic and Transportation. He also informed the lead petitioner that he had sufficient numbers to request the item to be debated at Full Council.

4.1.7 The most recent Transport Liaison Group (all modes) meeting chaired by Cabinet Member for Traffic and Transportation on 2nd December 2014 discussed PHVs in bus lanes and concerns were raised by:

- Bus operators
- Portsmouth Cycle Forum
- Hampshire Constabulary

It is therefore possible that they will object to a proposal to allow PHVs to use bus lanes.

4.1.8 The concerns regarding the introduction of PHVs into bus lanes are made worse by their introduction leading to wider abuse of bus lanes by other ineligible motorists within the city. This could be mitigated by introducing a change concurrently with bus lane camera enforcement, to ensure that only eligible vehicles can use the lanes.

4.2 *Current users of Portsmouth's bus lanes*

4.2.1 Currently, most bus lanes in Portsmouth can be used by buses, licenced taxis and cyclists. "Bus" includes any vehicle capable of carrying 9 passengers or more, which includes minibuses and coaches.

4.2.2 Licenced taxis (hackneys) have been able to use the bus lanes since 2001. This was approved in the Traffic and Transportation meeting on 13/3/2001 provided that Hackney's adopted PCC livery standard for hackney cabs.

4.2.3 There are currently approximately 234 licensed taxis and 950 PHVs working in the city providing a 24-hour service to residents and visitors alike. Private hire vehicles licensed by the City Council currently do not have access to bus lanes.

4.2.4 Traffic commissioners, as the regulators of the bus industry and the registrars of all local bus services, have powers under the Transport Act 1985 and the Transport Act 2000 as amended and sections 38 and 39 of the Transport (Scotland) Act 2001.

Where an operator has failed to run a service as registered, without reasonable excuse, the following powers are available to the traffic commissioners;

1. Prohibit the holder of the licence from using vehicles to provide local bus services. This can be for a specified or indefinite period.
2. To attach a condition restricting the number of vehicles which the operator may use under the licence.
3. Apply financial sanctions (pay a penalty) in accordance with specified limits.

The amount specified in all circumstances must not exceed £550 multiplied by the total number of vehicles which the operator is licenced to under all the PSV operators held by the operator.

4.2.5 Traffic commissioners, as the regulators of the bus industry and the registrars of all local bus services, have powers under the Transport Act 1985 and the Transport Act 2000 as amended and sections 38 and 39 of the Transport (Scotland) Act 2001.

4.2.6 Delivering punctual and reliable services is a joint responsibility between operators and local authorities. This joint accountability is reflected in the statute and has been statutorily acknowledged and whilst in the past traffic commissioners could only take action against operators, they can now also take action against local authorities.

4.2.7 Licenced taxis charge according to a sealed meter which means that they charge based on mileage and time a journey takes. They can be flagged, wait at ranks, hailed or booked. In contrast it is not compulsory for PHVs to have a meter and a journey must be pre-booked.

4.2.8 It is within the powers of the City Council to determine which vehicles are allowed in bus lanes in Portsmouth. A decision to allow PHVs in bus lanes would be subject to a 3 week statutory consultation via a Traffic Regulation Order (TRO).

5. Corporate objectives

5.1 Improving public transport helps to deliver the Council's plan on a page and the Shaping the Future of Portsmouth strategy. It is also central to a number of outcomes within Local Transport Plan 3. It contributes towards a number of corporate priorities by improving accessibility and social inclusion and tackling air quality and traffic congestion. It also supports two of the main objectives of the Transport and Environment Service Business Plan 2011-14

- Operational objective 1:
  To promote, in conjunction with partners and stakeholders, public transport in Portsmouth so it becomes the travel mode of choice.

- Operational objective 2:
  Minimise the impact of congestion and manage traffic flows to, from and around Portsmouth.

5.2 Bus lanes and bus priority measures are implemented to provide effective and systematic measures protecting buses from the effects of traffic congestion and have a beneficial impact on journey times, service reliability, passenger demand, revenue and the level of subsidy required to deliver a high quality passenger transport network, and reduce the costs of operating a given level of bus service.

5.3 Protecting bus lanes in Portsmouth confirms the City Council's commitment and support to the Punctuality Improvement Partnership and to support measures designed to improve the performance, efficiency, cost and image of bus travel. These aims are in line with encouraging the use of sustainable transport; reducing traffic volumes and its associated adverse impacts on congestion, air quality and carbon emissions, which are key problems in Portsmouth.

6. Public Health

6.1 Local authorities' statutory responsibilities for public health services are set out in the Health and Social Care Act 2012. The Act conferred new duties on local authorities to improve and protect public health.

6.2 An October 2012 Public Health Factsheet entitled "The new public health role of local authorities" sets out the legal framework of the Act:
'Broadly speaking, the Health and Social Care Act 2012 ("the Act") gives responsibility for health protection to the Secretary of State and health improvement to upper tier and unitary local authorities.

6.3 The Secretary of State will also delegate some health protection functions to local authorities. Local authorities will maintain responsibility for their existing health protection functions, many of which are exercised by lower tier and unitary authorities.'

6.4 In 2012, a proposal in Leeds to permit Hackney carriages to use bus lanes was criticised for failing to consider the impacts of the proposal on public health: Namely:

1) The proposal may directly increase the number of road accidents
2) The proposal is likely to discourage cycling which is an important form of physical activity, and this will adversely affect health and quality of life. The second effect is believed to be more important than the first

6.5 A full evidence review (including references) prepared by the Portsmouth City Council's Public Health is attached in Appendix C

7. Safety issues

7.1 This section presents information from a report taken to Licencing Committee on 21 November 2014.

7.2 The following data is all drawn from Stats19 Police/Local Authority casualty record analysis. "Taxi" refers to Hackneys and PHVs as STATS19 data does not record this separately.

7.3 Portsmouth has significantly higher taxi casualties than the rest of Hampshire and vulnerable road users feature heavily.

7.4 *Overall picture (provided by Hampshire Constabulary):*

Dividing the county into the Policing areas:

- During the four years January 2009 – December 2012 there were 407 personal injury collisions in the area involving taxis and private hire vehicles.
- 61.4% of the collisions occur in the Eastern Roads Policing Unit (RPU) Area (this includes Portsmouth and Isle of Wight)
- 24.1% of the collisions occur in the West RPU Area
- 14.5% of the collisions occur in the North RPU Area
- 215 collisions (72 serious, 143 slight) occurred in Portsmouth, this accounts for 41.8% of the 407 collisions Hampshire wide.
- 76 collisions (15 serious, 61 slight) occurred in Southampton, this accounts for 18.7% of the 407 collisions.

In 70.6% of the collisions in Portsmouth – the taxi driver had blame for the collision

7.5 *Portsmouth picture*

- Analysis of the most recent stats19 data for Portsmouth 1st September 2010 and 31st August 2014 (4 year's data) shows there were a total of 200 collisions involving taxis and PHVs (1 fatal, 45 serious and 154 slight). *(November 2014 Licencing report reported 2011-14 but this should have read 2010-2014)*

- 57 (21%) of the collisions are with pedal cycles, 60 (22%) are with pedestrians and 15 (6%) are with motorcycles with the remaining being with other vehicles.

7.6 *Cycle collisions*

- It is clear that cyclists are over represented in this data.
- Cyclists make up only 4.7% of traffic but 21% of Taxi related casualties.
- Taxis/Private Hire represents 0.9% of registered vehicles in Portsmouth (1000 out of a total of 110,000) but represent 8% of total cycle collisions.
- Most common contributory factor is driver failing to look properly.
- Most common manoeuvre is pulling out on cyclists at junctions and roundabouts and opening of doors into their path.

7.7 *Pedestrian collisions*

- Most common contributory factor is driver failing to look properly, although this is followed by pedestrian failed to look and impaired by alcohol.
- Most common manoeuvre is the taxi going straight ahead

7.8 *Vehicle Collisions*

- Most common contributory factors are: failed to look properly and failed to judge other persons path or speed.
- Most common collisions are pulling out at junctions and roundabouts and rear end shunts.

7.9 *Locations of note*

- 82% occur on main 30mph roads
- Taxi casualties are spread widely across the city but four locations are priorities.
    - Cosham – Southampton Road to M27
    - A2047 – entire length
    - Fratton Station (radius of 100 metres from entrance
    - Albert Road entire length

7.10 *Summary*

- As professional drivers, taxi drivers are performing poorly in Portsmouth based on the safety evidence.
- There is a high percentage of vulnerable road users involved in collisions with taxis.
- A lack of observation and care at junctions and when driving generally is the prevalent behaviour.

7.11 *Most current data*

During the period 1 Sept 2011 - 30 September 2014 (3 year's data) taxis and PHVs were involved in 120 reported road traffic incidents.
36 of these incidents involved taxis/PHVs and pedal cyclists. Of these, the taxi/PHV driver was recorded as "at fault" in 29 cases, the pedal cyclist in 5 cases, and joint fault in 2 cases.

8 Trialling PHVs in bus lanes

8.1 At the all-modes (bus, taxi and PHV, active travel, rail and ferry) Transport Liaison Group (TLG) meeting chaired by Cabinet Member for Traffic and Transportation on 2nd December 2014, it was discussed that it may be possible for a trial to be held, allowing PHVs into bus lanes in a specific area for a time limited period to enable monitoring and to gauge how expansion of this trial might affect the rest of the city.

8.2 If a trial were to proceed it would need to be in a mixed traffic area to ascertain how other modes of transport such as pedal cyclists would interact with PHVs.

8.3 It would also need to meet the site criteria of cameral enforcement -

- The sign may only be placed in an area or along a route where enforcement cameras are from time to time used
- There must be a maximum distance between sign and camera of 1km
- For fixed cameras, the speed limit and camera signs should be visible to the driver in the same view as the camera.
- a camera sign should be co-located with the bus lane signs.

8.4 With these criteria in mind, the following areas may be suitable for a trial:

Option 1 Mile End Road, Church Street through to Market Way

Option 2 Winston Churchill Avenue Westbound

Option 3 Portsmouth Road, Cosham

Appendix A outlines the advantages and disadvantages of each proposed trial area and provide maps for context.

8.5 How a trial could operate:

- A TRO would need to be in place - this would be subject to consultation
- Camera enforcement would be in place
- PHVs and Hackneys would need to register with the Council for permission to use the trial bus lanes. For the duration of the trial, there would be no charge to the driver for this permission.
- PCC would subsidise this trial permission but, if the trial was made permanent, or expanded, permitted vehicles would be charged for permission to use the bus lanes for cost recovery only.
- Registered vehicles would be added to the list of permitted vehicles under camera enforcement and would not be issued a PCN for using the lane, other, non-permitted vehicles would.
- No additional livery would be required for PHVs taking part in the trial.
- Signs on trial lanes would be as shown in Appendix B
- The estimated costs for signage on each of the trial areas is shown in appendix A
- The trial would need to last at least 3 months.

8.6 Monitoring
A report would be returned to T&T for the Cabinet member to decide whether the trial should be expanded, retained or revoked.

8.7 The monitoring report would include the following items:

- Number of registered vehicles
- Number of uses of the lane by registered vehicles (if possible to record)
- Number of road casualties involving PHVs and Hackneys over the period compared with similar previous period (casualties data is passed to the council by the police 3 months in arrears)
- Number of PCNs issued to non-registered vehicles
- Punctuality and reliability information from the bus operators
- Correspondence from bus operators
- Correspondence from pedal cyclists
- Correspondence from PHV and Hackney drivers
- It would also be beneficial to measure the average journey time of PHVs on routes before and during the trial, if this is possible. *Currently investigating*

8.8 Cost of trial
Staff time - up to 40 hours of staff time over a 3 month trial.
Signage - approximate costs for signage for each trial area are given in Appendix A
Camera enforcement costs have not been included as this project will proceed with or without PHV use of bus lanes.

9 Signage and TRO

9.1 Two options are available for signage to allow PHVs to drive in bus lanes.

1) No changes to existing signs, the existing "bus/cycle/taxi" sign is now deemed sufficient by the Department for Transport. However, this would enable any PHV, Portsmouth registered or otherwise, to use the bus lanes and could cause confusion for other drivers if they see PHVs using bus lanes. It would also be more to enforce via camera enforcement.

2) Change signage (see Appendix B) to show "bus/cycle/authorised user". This would enable monitoring of the lanes by camera enforcement. "Authorised user" would cover taxis and PHVs and this signage is permitted by DfT. Costs would be incurred to change the signage, however if the scheme were to be extended at the end of the trial, costs could be recovered by charging taxis and PHVs an annual fee for use of the bus lanes.

9.2 A charge for permits to use the bus lanes could be made by the Council to help cover the costs of camera enforcement, signage changes and managing the authorisation scheme for use of the bus lanes.

9.3 Following a decision on signage, a traffic regulation order (TRO) would be required. As Portsmouth has a consolidation order on bus lanes, all changes could be made with one TRO rather than separate TROs for each bus lane included in the trial. A TRO would include consultation and the process would take roughly 4 months.

9.4 If granted permission, PHVs would be able to use the bus lanes within the agreed trial area 24 hours a day, with or without a fare present. It should also be noted that other drivers (a driver's spouse for example) could use a registered PHV and therefore use the bus lane without penalty.

10. Site specific issues

10.1 There is concern from the PCC Network Manager of a possible increase in incidents at breaks and merge points, for example; St Agatha's church (the end of the Rudmore/Mile End/Marketway route). Traffic queues here for most of the day and possible incidents could occur due to weaving and undertakes especially as general traffic may not spot the taxi manoeuvres.

10.2 Modelling and actual data from month long periods in 2012 and 2014 show that since the introduction of the bus lane on the M275 journey times for the average car driver have remained largely the same. Two separate sets of data have shown that the average morning peak journey now takes around 38 seconds longer and the evening journey is the same as before.

10.3 Traffic modelling and inbound recorded journey time data collated from month long periods in 2012 and 2014 show that since the introduction of the bus lane on the M275, travel times for the average car driver have remained largely the same. The modelling data for the morning peak indicates an additional 38 second delay per vehicle across the whole network while journey times for the PM peak have remained largely the same. The table below shows the changes in journey time as recorded by TomTom journey time monitoring. This is one of the two journey time source data systems available to us and was collected over month long periods. All data shown is for inbound traffic only:

Journey	Free flow journey time	AM peak (inbound)		PM peak (inbound)	
		Sept 2012	Sept 2014	Sept 2012	Sept 2014
Binsteed Rd to Rudmore via Kingston Crescent	1min 35	4min 22	5min 23	3min 14	2min 48
M27 to Anglesea Road	4min 49	7min	9min 32	8min 54	7min 16
Gladys Avenue to Anglesea Road	5min 35	9min 21	8min 38	8min 58	7min 57
Gladys Avenue to Rudmore Roundabout	1min 34	3min 20	2min 23	2min	2min

10.4 Modelling data also indicates that some roads/junctions have improved and some have gotten worse as a result of the park and ride road layout changes. Delays overall however are largely the same, but the point of queuing has moved. In the past vehicles utilised three lanes up to the Tricorn before it merged to two lanes, now vehicles are merged to two lanes just south of Rudmore Roundabout.

10.5 Meanwhile the park and ride bus service has a priority route into the city centre and The Hard. In addition, existing bus services, the X4 and X9, now also benefit from more reliable and punctual journey times. The new layout also provides reduced journey times for taxis and an improved arrangement for cyclists who also share the bus lane.

10.6 PHV bus use on the Anglesea Rd/Bishop Crispian signal junction could also lead to bus delays. Bus numbers here are large and on occasions buses do not always get through in one cycle of the traffic signals due to the green time requirement of the main road. Adding in more traffic here will delay buses further and add to congestion at this junction as a whole.

10.7 If bus punctuality is affected there is a risk that bus operators could reduce the frequency of their services.

11. Camera enforcement of bus lanes

11.1 A contract for camera enforcement of bus lanes is currently out to tender.

11.2 Enforcement using 4 semi-static sites is likely to be in place by Summer 2015.

12. Reasons for recommendations

12.1 Portsmouth City Council is committed to improving public transport, reducing congestion and increasing modal shift away from the private car. Bus lanes and priority measures help ensure buses can arrive on time and provide a reliable service to encourage modal shift.

12.2 Delivering punctual and reliable services is a joint responsibility, reflected in statute, between operators and local authorities. Whilst in the past traffic commissioners could only take action against operators, they can now also take action against local authorities.

12.3 The council is committed to reducing road casualties. This report outlines the very high incidents of collisions involving taxis and PHVs with cyclists, in the majority of cases, the taxi or PHV driver was reported to be at fault. Allowing PHVs to use bus lanes will severely reduce the space available to cyclists to ride in reduced road traffic, including PHVs, and could therefore increase road casualties.

12.4 Whilst a strongly supported petition has been submitted by PHV drivers to enable PHV use of bus lanes, other stakeholders including some hackney drivers, both major bus operators; First and Stagecoach, Portsmouth Cycle Forum and British Cycling have voiced strong objection.

12.5 Therefore, it is recommended that the Cabinet Member retains bus lanes for buses, bicycles and hackney cabs only.

13. Consultation

13.1 Stakeholders have been asked to provide formal written comment through the all-group Transport Liaison Group mailing list.

13.2 This section provides a summary of stakeholder comments sought to accompany this paper. A copy of stakeholder comments in full (with names and addresses redacted) can be found in Appendix D.

13.3 As stated above, a petition of 1830 signatures was submitted to the Council on 13 June 2014 requesting use of the bus lanes by PHVs

13.4 One further response has been submitted by a PHV driver in support of using the bus lanes

13.5 Five responses have been submitted by hackney drivers/representatives. One is in support of a trial. Three object to PHV use of bus lanes.

13.6 Aqua cars (major operator) has submitted a response in favour of PHV use of bus lanes.

13.7 Stagecoach and First bus object to PHV use of bus lanes.

13.8 Portsmouth Cycle Forum objects to PHV use of bus lanes.

13.9 British Cycling objects to PHV use of bus lanes.

13.10 Sustrans object to PHV use of bus lanes.

13.11 Full consultation would be required with all stakeholders via the TRO process.

14. Equality impact assessment (EIA)

14. A preliminary equality impact assessment has been completed and the recommendation does not have a negative impact on any of the protected characteristics as described in the Equality Act 2010. If a trial is implemented then an impact assessment may be required once stakeholder feedback has been collated and presented at T&T.

15. Head of legal services' comments

15.1 If the recommendation to retain bus lane for Buses, Bicycles and Hackney cabs only is accepted, then there is no legal implication. However, if either of the other options (trial or full use of bus lanes by PHVs) are to be followed, then the Traffic Regulation Orders will need amendment which will require legal procedures to be followed before they can become operational to incorporate the changes.

15.2 The Council as a highway authority, have powers under Section 9 of the Road Traffic Regulation Act 1984 to make experimental traffic order for traffic control lasting no longer than 18 months.

15.3 In making any traffic regulation order, the Council must comply with the procedures set out in the Act and the regulations made there under. This procedure requires the Council to publish a notice to the effect that an experimental order has been made and providing that within a period of 6 months, any person may object to the making of the order on an indefinite (permanent) basis. Any such objections received must be considered when determining whether or not to make the order permanent.

15.4 In considering this matter the Council should also have regard to the provisions of the Traffic Management Act 2004 because Part 2 of the Act imposes a duty on all local traffic authorities to secure the expeditious movement of traffic on their road networks and to facilitate such movement on other authorities' networks.

16 Head of finance's comments

16.1 The recommendation to retain the current arrangements would incur no additional costs.

16.2 Allowing PHVs to drive in bus lanes for a trial period in a trial area will lead to additional costs for the City Council. These would include a Traffic Regulation Order and costs associated with a public consultation. To support enforcement, signage on the bus lanes affected would need to be changed. There would also be staff time involved, mainly in administering permission for PHV drivers to use the bus lanes specified. Enforcement costs and income from penalty notices would not be affected. The total cost of the trial is estimated to be £3,000.

16.3 Allowing PHVs to use all bus lanes throughout the whole city would require a second Traffic Regulation Order. To support enforcement, all signage on bus lanes would need to be changed. There would again be a cost for staff time, mainly granting permission to each driver on an annual basis. Income from the issue of permits would be offset against the ongoing costs. Again, enforcement costs and income from penalty notices would not be affected. A full financial appraisal will be carried out if the extension of the scheme throughout the city is pursued.

16.4 A further financial risk to the City Council is that bus companies may decide to reduce the frequency or deregister bus services as a result of a reduction in punctuality and reliability, extra congestion and increased operating costs. This could lead to requests from the bus companies or residents for the City Council to support these services financially.

16.5 Currently there is no budget for the cost of a trial or a full implementation and a source of funding would need to be identified if the net revenue from the issue of permits did not meet the costs of implementation.

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Signed by:

Appendices:
A - Trial details and maps
B - Signage example
C - Public Health paper
D - Stakeholder comments in full

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: