

REPORT:	Regulatory Committee
DATE:	12 October 2022
REPORTING OFFICER:	Operational Director – Legal and Democratic Services
PORTFOLIO:	Resources
SUBJECT:	Taxi Licensing Matter
WARDS:	Borough-wide

1 PURPOSE OF REPORT

To consider additions and amendments to the Council’s taxi licensing policies and Private Hire Operator Conditions.

2 RECOMMENDATION

That the Committee considers the proposals and makes appropriate recommendations to the Executive Board.

3 INTRODUCTION AND BACKGROUND INFORMATION

3.1 Two matters are being considered in this report. In respect of the first, members will recall that the Council’s taxi licensing policies are currently being reviewed in light of the Department for Transport’s guidance on “Statutory taxi and private hire vehicle standards” which was issued in July 2020 (“the Statutory Guidance”). This provides that public safety is to be of paramount consideration in discharging licensing functions and sets out a number of recommendations that the Department expects to be implemented unless there is a compelling local reason not to.

3.2 A number of the recommendations are already in place or have been recently adopted by the Council. This report considers another of the recommendations, namely the adoption of a private hire operator condition relating to Passenger Carrying Vehicles. This is discussed further at paragraph 4.1.

3.3 In respect of the second matter, Members will also recall that, on 25 February 2021, the Executive Board approved a temporary amendment to the vehicle policy which extended the maximum age restriction on Hackney Carriage and Private Hire Vehicles by 2 years, for a 2 year period, subject to conditions (as recommended by this Committee). That temporary amendment is due to expire on 25 February 2023 and there has been a request from the trade to extend it by further in light of the ongoing cost of living crisis. This is dealt with at paragraph 4.2.

3.4 According to the Council's Constitution, the Committee is responsible for determining policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire.

3.5 However, the Constitution must now be interpreted in accordance with the case of R (On the application of 007 Stratford Taxis Limited v Stratford on Avon District Council 2011. This Court of Appeal decision interpreted the meaning of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in respect of matters which must be dealt with by a Council's Executive or by a committee of its council. Essentially, the court held that: (1) it was clear that individual applications relating to taxi matters must be dealt with by the equivalent of this Council's Regulatory Committee and (2) matters calculated to facilitate, or be conducive or incidental to such applications must also be dealt with in the same way but (3) any "plan or strategy" associated with such a function would be an executive function and therefore have to be determined by a Council's Executive. The Stratford case concerned the introduction of a wheelchair access policy. The decision was taken by the Council's Cabinet rather than its Licensing Committee. The challenge from the taxi trade was that the Licensing Committee should have adopted the policy. This element of the challenge was rejected by the Court.

3.6 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.

3.7 In deciding whether to recommend the adoption of a policy the following questions should be addressed:-

3.7.1 Has a proper consultation been undertaken where the duty arises?

3.7.2 Are the proposals necessary and proportionate?

4 POTENTIAL AMENDMENTS

4.1 Amendment 1: A new Private Hire Operator Condition regarding the use of Passenger Carrying Vehicles

4.1.1 As Members will be aware, a Private Hire Vehicle is a "motor vehicle constructed or adapted to seat fewer than 9 passengers". Where a

larger vehicle is required, such as a minibus, bus or coach, this is known as a Passenger Carrying Vehicle or PCV. PCVs are subject to a different licensing regime.

4.1.2 Some Private Hire Operators hold PCV licences or subcontract bookings to PCV licence holders where a PHV is unsuitable. In these circumstances, neither the driver nor the vehicle would have been licensed with the Council despite the passenger having booked through a Private Hire Operator which is licenced with the Council.

4.1.3 According to the Statutory Guidance,

*...driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.***

Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats are required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licensed driver will be used who is subject to different checks and not required to have an enhanced DBS check.

Proposal

4.1.4 In light of the above, it is proposed to introduce the following new condition for Private Hire Operators:

4.1.5 **A private hire operator must not provide (to include subcontract) a vehicle that is able to carry more than 8 passengers without first obtaining written or verbal consent of the hirer. The hirer must be made aware that neither the vehicle, nor the driver (where applicable) are licensed by Halton Borough Council and as such are subject to different checks. The hirer must also be informed that the driver is not required to have an enhanced DBS check. Verification of consent must be kept for a period as stated in 2.2 of these conditions.**

4.1.6 For the sake of clarity 2.2 of the Private Hire Operator conditions requires that certain information must be kept for not less than 6 months.

Consultation

- 4.1.7 The Statutory Guidance provides that licensing authorities should consult on proposed changes in the licensing rules that may have significant impacts on passengers and/or the trade.
- 4.1.8 The trade were consulted by email on 29 July 2022 about the proposal and details of the consultation were posted on the Council's website with a closing date for comments or opinions to be made by 12 August 2022.
- 4.1.9 No relevant responses were received.

4.2 Amendment 2: Extending the temporary amendment to the Vehicle Policy relaxing the maximum age of Hackney Carriage and Private Hire Vehicles.

- 4.2.1 The Council's Vehicle Policy provides the following age restrictions for licensed vehicles:-

Non fully wheelchair accessible vehicles

Can be no more than 5 years old when first licensed and the maximum age is 10 years old.

Fully wheelchair accessible vehicles

Can be no more than 13 years old when first licensed and the maximum age limit is 16 years old.

- 4.2.2 Due to the economic consequences of the pandemic on the trade, a temporary amendment came into force on 26 February 2021 which extended the maximum age restriction on Hackney Carriage and Private Hire Vehicles by 2 years, for a period of 2 years, subject to the following conditions:-
- any vehicle taking advantage of the dispensation shall be subject to 3 tests per year; and
 - no vehicle taking advantage of the dispensation may be transferred to another proprietor.

Proposal

- 4.2.3 The temporary amendment was due to expire on the 25th February 2023 but the economic circumstances have not improved with the current cost of living crisis. The trade have therefore requested that the temporary amendment continue for a further period.
- 4.2.4 In determining whether the temporary amendment should be extended, the following considerations should be taken in to account.
- Replacing a licensed vehicle on attaining current age limit could, in the current time of austerity, be punitive to the proprietor and

place unreasonable financial and/or personal pressure on the licence holders.

- Removing the conditions in their entirety could lower the standards achieved in the Borough since age restrictions were established, to the detriment of the service to which the public are entitled.
- Any extension that may be granted would only benefit a small percentage of the trade whose vehicles reach the current maximum age in the next year or two. Even those licence holders who may benefit from any temporary extension to the current policy may not necessarily take advantage of any potential rule change and choose to obtain a newer vehicle anyway. In fact, there are only 17 licence holders that are currently benefiting from the temporary amendment.

Consultation

4.2.4.1 The trade were consulted on 10 June 2022 by email and the following questions were posed:-

- (1) Whether you consider an extension of the maximum age limit on wheelchair accessible vehicles only is needed?
- (2) Whether you consider an extension of the maximum age limit on standard vehicles only is needed?
- (3) Whether you consider an extension of the maximum age limit on all vehicles is needed?
- (4) If you feel an extension is needed on any of the points above what length of time is required?

4.2.4.2 There were 54 replies to the consultation which have provided the following information:

- 43 replies are in favour of an extension to the vehicle age limit
- 1 reply was in favour of an extension to standard vehicles only
- 2 replies are in favour of an extension to fully wheelchair accessible vehicles only
- 4 replies were against an extension to the vehicle age limit
- Many of those who are in favour made various comments regarding the extension and length of time.

4.2.4.3 The findings with comments were collated and can be found at Appendix A of this report.

4.2.4.4 The public have also recently been consulted on the same questions. At the time of drafting this report, the public consultation period is ongoing but is due to expire on 12 October 2022. The Committee will be updated on the results of this at the meeting on 12 October 2022.

5. REGULATORS' CODE 2014

- 5.1 The Regulators' Code 2014 requires regulators (such as the Council) to take into account a number of factors when introducing new policies.
- 5.2 For example, paragraph 1.2 of the Code states: "When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:
- understand and minimise negative economic impacts of their regulatory activities;
 - minimising the costs of compliance for those they regulate;
 - improve confidence in compliance for those they regulate, by providing greater certainty; and
 - encourage and promote compliance."
- 5.3 The Code also states that regulators should base their regulatory activities on risk. In the present case the balancing exercise is to weigh any negative consequences on the taxi trade against the positive consequences on the public who use the services of the trade.
- 5.4 It is taken as read that unnecessary burdens should never be imposed and that all actions need to be proportionate.

6. OPTIONS

- 6.1 The options available to the Committee are to **recommend**:
- Agreement to some or all of the potential changes or
 - Amendment to some or all of the potential changes or
 - Rejection of the potential changes.
- 6.2 The Committee are asked to recommend one of the above options to the Executive Board for adoption.
- 6.3 Should the Committee recommend the second option to amend any of the potential changes to the policy and/or licensing condition then they will need to be altered. The Committee would therefore be requested to include within the resolution a delegation of the task of preparing detailed wording and other consequential matters to the Licensing Manager.

7. POLICY IMPLICATIONS

- 7.1 Any changes made would amend elements of existing policy and vary conditions relating to a Private Hire Operator's licences issued by the Council.

8. OTHER IMPLICATIONS

None

9. IMPLICATIONS FOR THE COUNCILS PRIORITIES

9.1 Children and Young People in Halton

N/A

9.2 Employment Learning and Skills in Halton

N/A

9.3 A Healthy Halton

N/A

9.4 A Safer Halton

None

9.5 Halton's Urban Renewal

N/A

10. RISK ANALYSIS

There are no associated risks which have been identified with this item.

11. EQUALITY AND DIVERSITY ISSUES

None identified.

12. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
1. Taxi Consultative Group Agendas	Licensing Section	Kim Hesketh
2. Current licence Conditions/policies		
3. Taxi Consultation File		

Appendix A

Consultation on age of vehicles

Name	Age of vehicles extension	Comments on age of vehicle extension
1.	Yes	Extend the maximum age on all vehicles
2.	Yes	An extra year should be considered
3.	Yes	Extend as long as properly maintained as cost are continually rising
4.	Yes	Extension on normal cars to a minimum of 10 years old if the vehicle is maintained
5.	Yes	Extend the age of all vehicles, if car passes MOT then good to go
6.	Yes	As long as your taxi passes the MOT and is kept in a clean condition you shouldn't have to change
7.	Yes to standard cars only	Wheelchair accessible vehicles – no extension Standard vehicles – extend to 12 years
8.	No	All vehicles should stay as they are otherwise the standard of vehicles could suffer
9.	Yes	An extra 2 years on all vehicles with the cost of living going up so are the price of new vehicles as long as it is maintained and 2 test per year many of them are still in very good condition.
10.	Yes	Extending the age is one less thing to worry about
11.	Yes	In my opinion a cars age doesn't always determine its overall roadworthiness. More modern cars and especially electric vehicles will have a much longer life span than traditional cars due to better technology that exists today and the fewer moving parts of the EV. Providing that the vehicle still meets the requirements and passes it taxis based MOT and the interior is in good condition the vehicle should be allowed to stay on the road. After 10 years the interior could be showing some heavy wear and tear but is would be much cheaper to renew the interior of a vehicle than to replace it
12.	Yes	two year extension on all vehicles in the current circumstances would be appropriate
13.	Yes	An extension on all vehicles would be helpful
14.	Yes	Given the cost of things and the increase in petrol car repair etc I think we do need an increase
15.	Yes	Personally I don't think any driver would want to go back thirty odd years, when the majority of vehicles were only just roadworthy. Because of the reliability and robust of modern vehicles I think some sort of extension based on the vehicles own

		testing performance may be an answer, say two consecutive fails (or so many in a certain time period) and it then has to be replaced. When I replaced my previous vehicle there was nothing wrong with it only that it had reached the age limit.
16.	Yes	I would support an extension on the age limit of all vehicles
17.	Yes	I strongly agree with an increase in all vehicles life being extended to me all vehicles should be allowed to stay on as a taxi for as long as vehicles pass the council strict test, there should be no age limit for car or cabs
18.	Yes	I personally believe and am for an extension on both wheelchairs accessible vehicles and non-wheelchair accessible vehicles. I think it would be acceptable to test these vehicles 3 times annually to ensure safety and compliance
19.	Yes	Two years on all vehicles the price of cars and wheelchairs have gone up quite dramatically in the last two years. Fuel has gone through the roof.
20.	Yes to wheelchairs only	Regarding cars is they were given an extra two years the cars are given a hard life on the taxis and driver do look after them but by the time they have reached 10 years they could have 500,000 miles on them and are tired inside and out. The cab are purpose built for the trade and are commercial vehicles so used to the hard life, but if to be extended past their 16 years should maybe have a 4 month test instead of a 6 month test
21.		
22.	Yes	An extension on all vehicles considered
23.	Yes	Extension is needed the price of cares is through the roof especially black cars. The age limit should be changed immediately
24.	Yes	Great idea as long as road worthy and clean
25.	Yes	Should be extended by two years for 1 st registration this would allow drivers to find cheaper vehicles when searching the used car market. All vehicles should be allowed a further two years on expiry of age of vehicle. Make unlimited age restriction on wheelchair cabs this would encourage some drivers to keep cabs as sometimes there is a shortage.
26.		Age limit to bring a vehicle on should stay the same as it is now
27.	Yes	An extension on all vehicles is a good idea as long as strict testing is in place, as long as a vehicle is safe and meets the criteria it should be able to remain as a taxi. A minimum of 14 years should be considered followed by six monthly tests.
28.	Yes	An extension on all vehicles is fair in the current economic climate. Maybe cars should be 7 years from first registration to 12 years as long as road worthy and clean. Second hand cars have increased by 57% which makes it very expensive to buy a vehicle under 5 years.
29.	Yes	An extension to all taxis extended to at least 5 years as only the Council test.
30.	Yes	Car age limit should be increased for vehicles already licensed
31.	Yes	Great idea to prolong the life of all the taxis we currently use. As we are all aware car prices as well as everything else have rocketed over the past few months and we are finding it hard to source a car which would meet Halton taxi standards at an affordable price. Another 2-3 years extension would really be welcomed but only of a car was to pass a test and to be kept to an acceptable standard of cleanliness.

32.	Yes	Extension on all vehicles
33.	Yes	Extension all vehicles would be a good idea especially for wheelchair cabs if cabs are forced of the road because of their age, then disabled passengers would have problems getting transport. The reason being not many drivers could afford the £50,000 plus price tag to replace them. The age limit for vehicles coming onto the job should remain the same.
34.	Yes	Life of all vehicles should be extended, the age to which the vehicle should be allowed to come on should remain the same.
35.	No	It would be a mistake to go down that route, the public of Halton know what they are getting with a good standard and safety. I think it is the drivers responsibility to cater for the purchase of a car/cab
36.	Yes	If the vehicle is kept services and passes it test twice a year then the life should be longer.
37.	Yes	Wheelchair cabs should be no age, cars maybe 12 years old with 12 month test upto 6 years and minimum age of 6 years to be let on.
38.	Yes	An extension is needed on all vehicles, if an extension is to be approved 3 mots a year and must pass its test
39.	Yes	Age vehicles come on should be over 5 years. Rather than just extending the final age of the vehicle.
40.	Yes	
41.	Yes	
42.	Yes	I think the age of vehicles should be raised at least for a time as the cost of even a 2 nd hand vehicle is crazy at the current time. I cant see a problem with this if a taxi passes its compliance test and its emission are ok
43.		Why is there an age limit if a vehicle passes it test then its safe for the road, drivers don't keep them more than 6-7 years anyway. So no limit and once reaches 10 years old have three test a year
44.	Yes	Agree to the extension to the ages of non-wheelchair accessible vehicles and I wish to prose an amendment to the accessible vehicles to the extent that the age limit is abolished
45.	Yes	Extend the age of vehicles to 12 years without affecting the general condition of the taxi fleet and the age vehicles are brought on at from 5 to 7
46.	Yes to wheelchairs only	To wheelchair accessible vehicles not a lot around at the moment and if it passes a test I don't think they should have a age limit.
47.	Yes	I feel the age of all vehicles should be increased as drivers spend a lot of money keeping their vehicles on the road and new vehicles are more expensive
48.	Yes	Agree to an extension because in the current climate the cost of new vehicles have increased dramatically and make it harder to afford, should be for at least 2 – 3 years
49.	Yes	Age limit for all vehicles should be extended, vehicle should still have a limit they come onto the system
50.	Yes	Age of vehicles should be raised to 12 – 14 years, age vehicles can come on should be 6-7 years instead of 5
51.	No	Not necessary

52.	Yes	An extra two years is good
53.	No	Not necessary
54.	No	I personally don't see any need to an extension