

REPORT FOR DECISION

DECISION OF:	LICENSING AND SAFETY PANEL
DATE:	15th JUNE 2017
SUBJECT:	REVIEW OF CURRENT POLICIES RELATING TO THE LICENSING AND TESTING OF HACKNEY CARRIAGES
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	Review of current policies relating to the licensing and testing of Hackney Carriages.
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. To implement the "exceptional condition" criteria for hackney carriages at 10 years and to continue to encourage proactive maintenance provide for additional testing requirements where vehicles fail below acceptable standards. As previously agreed at the Licensing and Safety Panel Meeting on the 8th May 2014. 2. To defer implementation of the "exceptional condition" criteria for Hackney Carriages until a further report is considered by the Licensing and Safety Panel on the 27th July 2017. This is the Preferred Option
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes ✓ No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
Statement by Executive Director	The cost of the licensing function are funded

of Resources:	through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.
Equality/Diversity implications:	<p>Yes No ✓</p> <p>The review of the existing hackney carriage vehicle age policy will impact on the identified stakeholders, but does not impact on any aspect of protected equality characteristics. A copy of the equality analysis form is attached at appendix 3.</p>
Considered by Monitoring Officer:	Yes. The purpose of the review of the existing policies is to consider having a consistent and equitable approach in relation to the licensing and testing of both Hackney Carriage and Private Hire Vehicles.
Wards Affected:	All
Scrutiny Interest:	Internal Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
N/A			
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 Members may recall a report that was considered on the 8th May 2014 relating to the review of current policies relating to the licensing and testing of hackney carriage and private hire vehicles. Members resolved that the Hackney Carriage Age Policy would be 10 years from date of first registration and the "exceptional condition" criteria be re-introduced and existing licence holders be allowed a 3 year transitional period should they have made financial plans in respect of their vehicle to allow them to be licensed subject to the "5 fault rule".
- 1.2 The transitional arrangements for existing licence holders that members approved in May 2014 comes to an end on the 1st June 2017. A copy of the minutes of the Licensing and Safety Panel (8th May 2014) is attached at Appendix 1.
- 1.3 The Licensing Service has received a request from the Bury Hackney Drivers Association to review the current age policy. In light of this the Head of Trading Standards and Licensing has consulted with the Chairman of the Licensing and Safety Panel and it has been agreed that the implementation of the exceptional

condition criteria for all Hackney Carriages has been suspended until this meeting where a further report will be presented by the Licensing Service for decision.

2.0 REQUEST FROM HACKNEY CARRIAGE DRIVERS ASSOCIATION

- 2.1 The request from the Bury Hackney Drivers Association submitted by Mr Giles Bridge on the 9th May 2017. A copy of the request and the petition is attached at Appendix 2.

3.0 CONCLUSION

- 3.1 Members are requested to consider the options of this report on page 1.

List of Background Papers:-

Licensing and Safety Panel Report - Review of current policies relating to the licensing and testing of Hackney Carriages and Private Hire vehicles. – 8th May 2014
Minutes of the Licensing and Safety Panel – 8th May 2014.

Contact Details:-

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Minutes of:	LICENSING AND SAFETY PANEL
Date of Meeting:	8 May 2014
Present:	Councillor D Jones (In the Chair) Councillors: N Bayley, D M Cassidy, P Heneghan, J Grimshaw, T Holt, A K Matthews, A Quinn, S Southworth, B Vincent and J F Walton
Apologies for absence:	Councillor T Pickstone
Public Attendance:	There were 2 members of public present at the meeting

LSP.982 DECLARATIONS OF INTEREST

There were no declarations of interest raised in relation to any items on the agenda.

LSP.983 MINUTES OF THE LAST MEETING

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 3 April 2014, be approved as a correct record and signed by the Chair.

LSP.984 PUBLIC QUESTION TIME

There were no questions raised under this item.

LSP.985 OPERATIONAL REPORT

The Assistant Director (Localities) submitted a report setting out information relating to operational issues within the Licensing Service since the last meeting of this Panel. The report outlined the detail of a Licensing Hearings Panel, held on 26 March, which duly granted a premises licence in respect of Topshop, 20 Hurst Street, Bury.

Delegated decision:

That the report be noted.

LSP.986 REVIEW OF CURRENT POLICIES RELATING TO THE LICENSING AND TESTING OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The Assistant Director (Localities) submitted a report setting out the outcome of a review into current policies relating to the licensing and testing of Hackney Carriages and Private Hire vehicles. With regard to the issue of the '5 fault rule' it was reported that complaints had been received from the Hackney Carriage Drivers' Association stating that the

current policy was unfair and discriminatory because it does not also apply to Private Hire vehicles of the same age.

Information relating to the current "exceptional condition" criteria in respect of Private Hire vehicles; the definition of faults for the "5 fault rule"; and the outcome of the consultation was appended to the report.

Delegated decision:

1. That the "exceptional condition" criteria be re-introduced for Hackney Carriages at 10 years and as an incentive to encourage proactive maintenance and provide for additional testing requirements where vehicles fall below acceptable standards, as set out in 5.0 of the report.
2. That further to (1) above, existing licence holders be allowed a 3 year transitional period should they have made financial plans in respect of their vehicle to allow them to be licensed subject to the "5 fault rule"

LSP.987 EXCLUSION OF THE PRESS AND PUBLIC

Delegated decision:

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items of business since it involved the likely disclosure of information relating to individuals who hold Licences granted by the Authority or applicants for Licences provided by the Authority.

LSP.988 APPLICATIONS FOR PUBLIC/ PRIVATE HIRE DRIVERS' LICENCES

The Assistant Director (Localities) submitted a report regarding applications for Public/Private Hire Vehicles Drivers' Licences.

The applicant, 13/2014, was invited to attend the meeting. The Chairman outlined the procedure to be followed and the applicant was invited to address the Panel on his application and any matters referred to in the Officer's report.

Delegated decision:

That after careful consideration of the representations submitted and taking into account the Council's Conviction Guidelines, the application for a Private Hire Driver's Licence by applicant 13/2014 be approved for an initial period of 6 months due to the serious nature of the offence and the relatively short period of time that had elapsed since the date of conviction.

The Panel requested that the Licensing Department be authorised to extend the licence period subject to no issues being brought to light during the 6 month period.

LSP.989 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

Following a request from the licence holder identified as 20/2014, the Panel agreed to defer consideration of the matter to the next meeting.

LSP.990 VOTE OF THANKS

As this was the last meeting of the Municipal Year the Chairman thanked all Panel members for their hard work and commitment.

Councillor Holt, on behalf of the Panel, placed on record thanks to the Chairman for his hard work, fairness and commitment during the year.

**COUNCILLOR JONES
CHAIRMAN**

(Please note: The meeting started at 7.00 pm and finished at 8.00 pm)



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Michael Bridge
 Licensing Unit Manager
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Our Ref: Bury/GB1
 Your Ref:
 Date: 9 May 2017
 Please ask for: Giles Bridge

Sent by email only to:
m.bridge@bury.gov.uk

Dear Mr Bridge

I am writing on behalf of the Bury Hackney Drivers Association to request that the council reconsider the decision that as of the 1st of June 2017 all vehicles aged over 10 years move to the 'exceptional condition' criteria and off the 5 fault rule. The drivers would ask that the council also take into account the petition which is submitted at the same time. The petition shows the strength of feeling that all the drivers, including those not directly affected, feel about this matter.

The reason for this request are the difficulties that this change will cause to a significant proportion of the trade over the coming year. The move from the 5 fault rule to exceptional condition means that proprietor's will find it more difficult to re-licence vehicles which are over 10 years old. The subsequent cost of acquiring a replacement vehicle will lead to a significant proportion of proprietor's/drivers to decide that it is no longer worthwhile remaining in the trade, with the result that provision of hackney vehicles in the borough will be reduced.

I will set out below the reasons and evidence why the drivers believe that the policy needs to be reconsidered.

The policy

The intention of the policy is laudable, to ensure that standards are maintained in the fleet of vehicles, particularly those vehicles that are older. The policy will affect a significant proportion of the hackney trade. Set out below are the number of vehicles month by month over the next year which will be affected by the policy. The total number is

2017: June 3, July 1, August 3, September 2, October 4, November 5,
 December 2.

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Proprietor:
 Giles Bridge, BA Hons, PG Cert Ed, PG Dip Law (Bar Vocational Course)
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2018 January 1, February 3, March 3, April 1, May 3.

The total number is 31 or 1/3 of the hackney fleet.

The 'exceptional condition' policy, as currently framed, has three main provisions which will cause difficulties, which are:

- b. No re-test of the vehicle will be permitted (other than replacing faulty light bulbs).
- c. Interior fascias, linings, carpets and upholstery to be free from damage i.e. cuts, blemishes, tears, with no evidence of repairs. Also to be in a clean and tidy condition.
- g. Bodywork must be free from blemishes and corrosion damage. Body and paintwork to be maintained in an exceptional condition. All repairs to the body and paintwork are to be professionally carried out by VIBRA member and subject to inspection by the council's Vehicle Examiner.

The difficulty that the trade face is that the vehicles are in daily use and are subject to normal wear and tear, which is outside the control of the drivers themselves. Damage to the vehicle will ordinarily be caused by passengers or other road users.

None of the 3 items above relates to the safety of the vehicle, but relate to the appearance of the vehicle. Maintaining a good appearance for vehicles on the fleet is important, but the trade are facing real financial pressures as a consequence of a number of factors, which mean that the capital cost of purchasing a new vehicle will cause, either: financial hardship or alternatively lead to a number of existing drivers to decide to leave the trade. That problem is substantial given the fact that a change to 'exceptional condition' requirement will mean that a substantial number of vehicles will have to be replaced.

The factors causing financial difficulties to the trade are: 1) the continuing decline of hackney trade, 2) increased competition from the private hire trade, 3) the high cost of a new vehicle.

1) Decline of hackney trade

There are a number of factors which are affecting the hackney trade. There has been a decline in footfall in the areas around the hackney ranks. There is a real difficulty getting onto the ranks at weekend evenings because of i) private vehicles parking on the ranks and ii) private hire vehicles parking on the ranks to drop off and pick up. The result is that fewer pedestrians make their way to the ranks, which then also affects the number of hackneys which attempt to park on them. It is also to be noted that the council's hackney by laws require hackneys to proceed to a rank. The difficulty that the trade face is that often it is not possible to find a space on the rank to wait, because of other vehicles parking illegally on those ranks.

I understand that the Hackney Drivers Association has supplied photographic evidence of this to the council, over a considerable period of time.

Income of drivers has reduced, or drivers have to work longer hours to maintain the same level of income. The fact that the hackney fares have not increased since August 2008 is making the situation worse. The Association estimates that driver income has decreased by 30% over the last 4 years.

2) Competition from the private hire trade

The number of private hire drivers and vehicles has continued to increase year on year. The number of private hire firms has consolidated: there are fewer, larger firms. Private hire firms are making use of new technology, such as apps and dispatch systems. The effect of this is that private hire firms are able to supply vehicles more quickly than they would have been able to do in the past. This means that the competitive advantage which hackney carriages have of being able to ply for hire and being immediately available for hire on the ranks is reduced. The result can be shown in the figures below, which show that the private hire trade has expanded considerably over the last 3 ½ years, yet the hackney trade has stagnated. The number of private hire vehicles licensed by Bury has increased by 180, 25%, between 2014 and 2017. These figures support the hackney trade's contention that in comparison to the private hire trade, that the hackney trade is finding the current trading situation is difficult, with a slight decrease in the number of licensed vehicles since 2015.

Year	Hackney Driver	Hackney Vehicle	Private Hire Driver	Private Hire vehicle
2014	119	89	872	721
2015	120	94	893	783
2016	118	93	929	835
2017	122	90	1006	901

3) The cost of licensing a new hackney carriage vehicle

A new hackney carriage vehicle must be less than 6 years old on first registration. The Council policy regarding the licensing of hackney carriages is that all vehicles must be wheelchair accessible and side rather than rear loading. Side loading is required because of the location and siting of hackney ranks. There is no similar requirement regarding private hire vehicles.

Hackney carriage vehicles are generally larger and heavier than private hire vehicles. The cost of running such vehicles is higher than for standard saloon private hire vehicles, in terms of fuel and servicing.

The vehicles themselves are more expensive, given their size and the fact that they have to be specifically adapted for use as hackney vehicles. The number of such vehicles on the market is limited and they command a premium price, which is maintained even when the vehicles are bought second hand. By way of example a new Peugeot E7 costs around £30,000. A 3 year old Mercedes Vito costs around £24,000 giving a working life of 7 years if it cannot meet the exceptional condition criteria. At 10 years old, having been used as a hackney carriage the vehicle would have very little

residual value. The cost of the vehicle is therefore around £3,400 per year before adding on the interest of any loan and vehicle servicing and repairs are accounted for. These are very substantial capital investments, which current takings within the trade do not justify.

Purchasing a 5 year old vehicle does not greatly reduce the cost per year: Peugeot and Renault side loading wheelchair accessible taxis are amongst the cheaper vehicles, whilst still providing reasonable reliability. Such a vehicle will still cost around £13-14,000 at 5 years old. With a working life of around 5 years, the annual depreciation is around £2,600 per year, though servicing and repairs will be more given the age of the vehicle. Again, the interest of any loan to purchase the vehicle would need to be added on.

These costs are substantially more than are incurred by private hire drivers when they purchase a vehicle. The vehicles are constructed to have a long working life, given the extra cost of purchase. The problem that the trade face with the 'exceptional condition' criteria is that by the time a vehicle is 10 years old only vehicles in truly exceptional condition can meet the criteria. Wear and tear over the years will have taken its toll and perfectly adequate vehicles which are capable of providing good service would be removed from the fleet essentially for their appearance rather than any concerns about safety.

The trade fear that over the next year, up to, 1/3 of the fleet may be lost. Such a loss would not only affect the drivers themselves but also impact upon the travelling public and disabled passengers in particular. The private hire trade is not equipped to provide transport for those requiring wheelchair accessible vehicles. The remaining hackney fleet would not be in a position to meet the demand for hackneys.

Given the difficulties currently faced by the hackney trade it is appropriate for the council to reconsider the move over to 'exceptional condition' and also to see what other steps can be taken to assist the hackney trade.

Comparison with other local authorities

The Bury hackney trade cannot be compared directly with Manchester, where there is a very busy city centre, which means that hackney vehicles carry out much greater mileage and work, with vehicles often having 2 drivers: a night and a day driver.

A better comparison is with neighbouring authorities. Bolton for instance allow hackneys onto the fleet up to 10 years old and will re-license vehicles until they are 15 years old. Rochdale has no age policy. Rossendale is attempting to reduce the maximum vehicle age policy, but this is in response to the particular situation which is particular to Rossendale. Blackburn with Darwen has no maximum age policy in relation to vehicles.

Request of the council

The hackney trade requests either that all hackney vehicles be allowed to remain on the 5 fault policy or that the exceptional condition policy is amended so that it reads as follows:

- b. A single re-test of the vehicle will be permitted (other than replacing faulty light bulbs).
- c. Interior fascias, linings, carpets and upholstery to be free from damage i.e. cuts, blemishes, tears. Also to be in a clean and tidy condition.
- g. Bodywork must be free from corrosion damage. Body and paintwork to be maintained in good condition. All repairs to the body and paintwork are to be professionally carried out by VIBRA member and subject to inspection by the council's Vehicle Examiner.

The drivers would request that the move from Five Fault to 'exceptional condition' not be implemented on the 1st of June 2017, but deferred until the Committee has had the opportunity to consider the concerns of the trade.

The drivers further request that the age limit for hackney vehicles be lifted from 10 to 15 years, which would be in line with the situation in neighbouring and comparable authorities. Increasing the maximum age policy would give drivers a greater period of time to recoup the investment that is involved in purchasing a wheelchair accessible vehicle.

Additionally, the hackney trade would request action is taken by the council to ensure that the hackney ranks are kept clear for hackneys to rank up on them. The trade believes that this can only be achieved if enforcement action is taken in relation to vehicles that park illegally on the hackney ranks. Such enforcement activity needs to be sustained over a period of time to become effective and to change the attitude of drivers who park in the vicinity of the ranks. The benefit of this is that it will increase the number of hackneys who are able to stand on the ranks. Those hackneys will do more work and customers will be encouraged to visit the ranks, knowing that a hackney will be available for hire.

On a separate matter the hackney trade would request that Bury Council look to widening the number of garages authorised to test vehicles, to enable there to be a choice of garage, which would mean that the waiting time for appointments would be reduced. Other local authorities have a panel of garages which can be used. Standards can be maintained as appropriate criteria can be set. Bolton Council for instance requires that all garages which test hackney and private hire vehicles tender for the work and have the highest VOSA rating, which is a green light.

I look forwards to your response in this matter and thank you in advance for your attention and assistance.

Yours sincerely,

Giles Bridge
Barrister & Licensing Consultant

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Mobile: 07866 520457

Enc: Petition signed by hackney drivers