

REPORT FOR DECISION

DECISION OF:	LICENSING AND SAFETY PANEL
DATE:	8TH MAY 2014
SUBJECT:	REVIEW OF CURRENT POLICIES RELATING TO THE LICENSING AND TESTING OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES
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 and Private Hire vehicles.
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. To re-introduce the "exceptional condition" criteria for hackney carriages at 10 years and as an incentive to encourage proactive maintenance provide for additional testing requirements where vehicles fail below acceptable standards. This is the recommended option as detailed at 5.0 2. Continue with the current licensing and testing policies in relation to both Hackney Carriage and Private Hire vehicles. 3. Make alternative amendments to the current policies.
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:	Yes No ✓ 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.
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 In March 2000, the Licensing and Safety Committee resolved that any vehicle entering the Hackney Carriage or the Private Hire vehicle fleet must be under 10 years old from the date of first registration unless the vehicle was in 'exceptional condition'. In addition, once licensed, all vehicles must meet the 'exceptional condition' criteria once it reached its 10th birthday and on subsequent periodic inspections otherwise the vehicle licence would not be renewed. The 'exceptional condition', criteria, which still applies to Private Hire vehicles but not to Hackney Carriages, is attached at appendix 1.
- 1.2 On the 2nd February 2006, Members of the Licensing and Safety Panel reviewed the above policy at the request of the Hackney trade and in relation to Hackney vehicles, resolved to replace it with the following criteria: All vehicles entering the Hackney Carriage fleet must be no more than 3 years old from the date of first registration and that once licensed, a vehicle could continue to be licensed beyond 10 years old subject to the vehicle passing its 10th renewal and subsequent periodic inspections with no more than 5 faults being identified (the 5 Fault Rule). A copy of the current defined criteria is attached at appendix 2.

- 1.3 On the 15th June 2009, the Panel approved a further request from the Hackney Carriage Drivers' Association to amend the Hackney Carriage vehicle age policy so that the requirement that all new vehicles entering the fleet to be under 3 years old did not apply to existing vehicle licence holders and to allow them to replace their vehicle with a vehicle no more than 6 years old.
- 1.4 On the 10th June 2013, the Panel considered a report outlining a number of complaints that the above Hackney Carriage age policy discriminated against new entrants to the fleet. Members resolved to amend the policy so as to allow both new entrants and existing vehicle licence holders, to licence a vehicle up to 6 years old from the date of first registration subject to other general criteria being met. In addition, following complaints from the Hackney Carriage Drivers' Association, Members resolved to amend the '5 Fault Rule', to make it more achievable, for example, by defining a number of faults to the vehicle bodywork as counting as only one fault. Members also resolved to extend the '5 Fault Rule' to all Hackney Carriages over 6 years old.

2.0 REQUEST TO REVIEW THE CURRENT VEHICLE POLICIES

- 2.1 Since the 10th June 2013, no Hackney Carriage under 10 years old has failed to meet the '5 Fault Rule' criteria. However, the Service continues to receive complaints from the Hackney Carriage Drivers' Association that the current vehicle testing policy is unfair and discriminates in that the '5 Fault Rule' applies to Hackney Carriages and not to Private Hire vehicles of the same age. In response to these complaints, the Panel resolved to review the existing vehicle licensing and testing policies in relation to both Hackney Carriage and Private Hire vehicles.

3.0 CONSULTATION

- 3.1 Between the 3rd January and the 10th March 2014, the Licensing Service has engaged in a consultation with all Hackney Carriage and Private Hire vehicle licence holders, Private Hire Operators and Trade Association representatives. All consultees were personally written to and invited to submit their views on the current vehicle licensing and testing policies and to provide any suggestions for improving them. The result of the consultation is as follows:

Number of consultation documents sent out::	Total number of respondents:	Number of Hackney respondents:	Number of Private Hire respondents:
864	66 (approx 7.6%)	47 (out of 86)	20 (out of 728)

- 3.2 A summary of the responses received is attached at appendix 3.

4.0 OPTIONS

- 4.1 Members are requested to consider the options on page 1. The preferred option based on the Licensing Services experience of administering the current policy, would be to remove the "5 Fault Rule" and to replace it with the current 'exceptional condition' criteria. Extending the 'exceptional condition' criteria in this manner would not only address the complaints from the Hackney Carriage Drivers' Association that they are being discriminated against but it would enable them, like the Private Hire trade, to licence or replace their current licensed taxi with a vehicle up to 10 years old, subject to the vehicle passing

it's initial mechanical/appearance inspection at Bradley Fold. The 'exceptional condition' criteria is a much simpler regime to administer and has been applied to Private Hire vehicles for the past 13 years. It will also be seen from the summary of the recent consultation that the vast majority of the current 728 Private Hire vehicle licence holders did not respond to the consultation, presumably because they have no complaint about the licensing and testing policy being applied to their vehicles. Of those that did respond, the majority have indicated that they are satisfied with the 'exceptional condition' policy.

- 4.2 If Members are minded to reapply this policy to Hackney Carriages, they may wish to consider allowing a 3 year transitional period for existing vehicle licence holders who may have made financial plans in respect of their vehicle, to allow them to continue to be licensed subject to the "5 Fault Rule". However, those who wish should be allowed to transfer to the new policy immediately.

5.0 MAINTENANCE OF VEHICLES

- 5.1 The "5 fault rule" was in part introduced to encourage ongoing proactive maintenance of vehicles particularly as they got older. In removing the "5 fault rule" Members are also requested to consider adopting the following policy in order to encourage that vehicles are properly serviced and maintained in the future. If adopted, the policy would be extended to both the Hackney and Private Hire trades.
- 5.2 In addition to the normal pass or fail situation, any vehicle, regardless of age, which fails any two consecutive periodic inspections with 3 or more MOT failure faults (as defined in the VOSA MOT Inspection Manual for Private Passenger & Light Commercial Vehicle Testing) will result in the vehicle having to undergo 2 interim tests per year. The policy is to be applied as follows: -
- a. If a vehicle fails a first grant or a licence renewal inspection with 3 or more defined MOT faults and subsequently fails its interim inspection with 3 or more MOT faults, when the vehicle licence is next renewed, the vehicle will be subject to 2 interim tests during the period of the 12 month licence. The vehicle owner will be required to pay the Licensing Service the requisite fee for the additional test before the licence is granted.
 - b. If a vehicle fails an interim inspection with 3 or more MOT faults and subsequently fails the next renewal inspection with 3 or more MOT faults, the licence will be renewed subject to 2 interim tests during the period of the 12 month licence. The vehicle owner will be required to pay the Licensing Service the requisite fee for the additional test before the licence is granted.

6.0 CONCLUSION

- 6.1 Members are requested to consider the options on page 1.

List of Background Papers:-

Nil

Contact Details:-

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CURRENT PRIVATE HIRE VEHICLE 'EXCEPTIONAL CONDITION' CRITERIA

- a. Vehicles must never have been entered on the HPI register. Even if removed from the register, vehicles will be excluded.
- 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. All to be in a clean and tidy condition.
- d. Chassis to be free from defects, distortions, repairs including welding.
- e. Vehicle to be as per the manufacturer specification for model. Modifications or adoptions only allowed with the consent of the council.
- f. Vehicles must meet this 'exceptional condition' criteria at each test and also at roadside checks. Should a vehicle fail at a roadside check, then the 'exceptional condition' status is suspended and the vehicle will not be re-licensed.
- 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.
- h. Exceptional condition criteria will also consider the previous fault history of the vehicle.

Definition of a fault for the '5 fault Rule' testing purposes

Ser:	Category of fault:	Description of fault:	Number of faults:	Remarks:
1	MOT ITEMS	Any individual fault which would cause the vehicle to fail the standard MOT test will count as:	1 Fault	e.g. leaking brake cylinder plus a bald tyre is 2 faults.
2	INTERIOR	Any combination of a number of faults within the interior of the vehicle (not including the dashboard instruments working correctly e.g. a broken speedometer) will count as:	1 Fault	(e.g. a torn passenger seat plus stained upholstery plus a hole in carpet will count as only 1 fault).
3	PAINTWORK	Damage to the vehicle paintwork regardless as to the number of areas concerned, will count as:	1 Fault	e.g. Damaged paintwork on 4 panels would count as 1 fault.
4	BODYWORK DAMAGE / RUST	Any number of dents / scratches / rusting which materially effects the appearance of the vehicle will count as:	1 Fault	e.g. A damaged passenger door and a damaged / rusted n/s wing would count as 1 fault.
5	EXCLUDED ITEMS	For the purpose of the '5 Fault Rule', the following items would require rectifying before a pass certificate was issued but would not be counted as faults:	Nil Fault	Light bulbs not working No fire extinguisher No Fare card on display Absence of vehicle signage A missing licence plate No taxi meter fitted / not accurate / not operating correctly.

Summary of responses received in relation to the Private Hire & Hackney Carriage vehicle licensing and testing consultation:

Number of consultation documents sent out::	Total number of respondents:	Number of Hackney respondents:	Number of Private Hire respondents:
864	66 (approx 7.3%)	47	20

Private Hire responses:

Do you believe that the current council policies relating to the licensing of Hackney Carriages and Private Hire vehicles need changing?

Yes 6 **No** 11 (3 respondents did not answer the question)

If you have answered Yes to question 2, do you think that the policy criteria relating to both types of vehicles should be the same:

Yes 5 **No** 1

A council cannot refuse to licence or renew a vehicle licence based solely on the age of a vehicle. What age policy would you like to see the council adopt in relation to the type of vehicle licence you currently hold?

None. Age could be discounted as a barrier and replaced by a maximum number years a vehicle can be licensed. A standard vehicle such as a Toyota, Ford or Vauxhall Astra could be allowed a maximum of six years licensing regardless of age of the vehicle when initially licensed. Purpose built vehicles could be increased to 10 years maximum regardless of the use as either Hackney or private hire. Minibuses may be given the higher maximum regardless of their licensed use.
No, I believe the current council policies on licensing should remain as they are.
No Change.
10 years as current.
Both vehicle types should be licensed up to 10 years old and once licensed stay on up to 15 yrs.
15 years.
10 years.
15 Year old.
Current age policy
Up to 10 years old then should go off
I suggest that the council's policy should be flexible for the vehicles under 10 years.
Unchanged.
10 Years old
Current age policy

Current legislation allows a council to fully test a licensed vehicle up to a maximum of 3 times per year. New vehicles up to 2 years old are currently tested only once per year. If you believe that in order to maintain the safety, performance, appearance and comfort of licensed vehicles that they should be subjected to more

tests as they get older, what age/test policy would you like to see the council adopt? (e.g. up 2yrs old 1 test, 2 to 8 yrs old 2 tests, over 8yrs old 3 tests per year)

I am more than satisfied with the current council policy on testing vehicles based on their age as stated by the council.
The 5 fault rule should remain to ensure that 10 year old vehicles that were purchased as first time taxis are kept in pristine condition throughout their plates period. The councils website could hold information of all previously licensed vehicles to ensure drivers do not purchase a vehicle that has already exceeded its maximum use. A simple search of the registration number would give information on the number of plates previously allocated to that vehicle.
No Change.
Up to 8 years – 1 test.
Vehicles should be tested no more than twice a year as recommended by the OFT.
Exceptional condition rule is unfair and unreasonable to expect tom expect a vehicle to be in show room condition at 10 yrs.
Over 8 - 3 tests.
Old regulation is fine.
Maximum 2 tests.
Correct policy
Leave it at twice a year
Happy with current policy
Over 10 years 3 tests
Not necessary to increase.
2 years 1 test – 2 to 8 years 2 tests
2 to 10 years 2 tests per year
Stay as it is

In addition to the number of tests a vehicle should be subjected to per year, can you suggest any other conditions such as the 5 fault rule, which will motivate a vehicle owner to maintain their licensed vehicles?

I have no other suggestions in regard to the 5 Fault Rule or any replacement policy to be put in place.
Testing at six month intervals already ensures that each vehicle is inspected 3 times per year. Example, test 1 16 th Jan 2013, test 2 16 th June 2013, test 3 15 th Jan 2014 equals 3 tests in 1 calendar year. This should be sufficient although I accept that some owners neglect their vehicles. A 4 th test for everyone should not be the only solution. My suggestion would be that all vehicles are charged the same amount for tests and that any vehicle that fails on more than 5 faults is allocated a further inspection within four months. In the event that is presented 4 months later with less than five faults it can be allocated a third inspection six months later where regardless of the number of faults it will be due an annual inspection 2 months later. This would encourage drivers to keep on top of their vehicles to ensure they only require tests at six monthly intervals regardless of the age of that vehicle.
None.
Have a 5 fault rule for mechanical faults which does not include cosmetic faults i.e. interior, bodywork etc.
Independent scrutiniser to decide fate of vehicles failing test – i.e. independent MOT station or directly to VOSA
After 10 years a private hire vehicle is no different than a hackney and so if both carry the public then the 5 point rule should apply to both.
Ok as it is
If checked properly shouldn't be any faults

No
Maintenance and service records as done with PSV vehicles
None

State any other ideas you may have to assist the council in this review process:

The council should consider any feedback from Hackney licence vehicles on a group basis which should not affect the process of Private Hire vehicles or the drivers as the privileges which Hackney vehicles have Private Hire vehicles are not entitled to as they have to work on a fully insured booking basis through licensed offices.
Licence plates to be produced on same day after passing test.
Abandon Bury Council and plate public hire with a neighbouring Authority. Thus Bury council losing revenue
Have more garages – at least 3
If the vehicle is road worthy and bodywork good at 10 years of age then why if it fails on 3 items for instance does this mean this car must not pass even if the owner is willing to carry out the necessary works to achieve the standard required. Most modern cars are now good for 15 years.
I think the test and the rule should be the same for all taxis and cars. Should be off at ten years old.
I personally think that the council should consider about the numbers of taxi drivers in the borough because there is some difficulty to make livings for all.

Hackney Carriage responses:

The following response was received from Mr Oakes, Chairman of the Hackney Drivers Association. Of the total 47 responses received, 36 were duplicate copies of Mr Oakes response.

Question:	Response received:
Do you believe that the current council policies relating to the licensing of Hackney Carriages and Private Hire vehicles need changing?	Yes
Do you think that the policy criteria relating to both types of vehicles should be the same?	There should be no age limit for either, there should be a limit on hackneys, there should be a survey carried out to see that council policy is still serving the public.
A council cannot refuse to licence or renew a vehicle licence based solely on the age of a vehicle. What age policy would you like to see the council adopt in relation to the type of vehicle licence you currently hold?	There should be no age limit for either
Current legislation allows a council to fully test a licensed vehicle up to a maximum of 3 times per year. New vehicles up to 2 years old are	Up to 3 yr old 1 test, 3 and upwards 2 tests

currently tested only once per year. If you believe that in order to maintain the safety, performance, appearance and comfort of licensed vehicles that they should be subjected to more tests as they get older, what age/test policy would you like to see the council adopt?	
In addition to the number of tests a vehicle should be subjected to per year, can you suggest any other conditions such as the 5 fault rule, which will motivate a vehicle owner to maintain their licensed vehicles?	The five fault rule should be removed and a 3 strikes policy if a vehicle fails on more than say 6 faults on the third time it would not be renewed.
State any other ideas you may have to assist the council in this review process?	There should be a minimum 2 testing stations, rear loaders should be allowed i.e. Fiat Freedom or Doblo. The council should provide a rank for the loading of rear loaders as in other councils.

Responses from the other 10 Hackney respondents:

Do you believe that the current council policies relating to the licensing of Hackney Carriages and Private Hire vehicles need changing?

Yes 5 No 5

If you have answered Yes to question 2, do you think that the policy criteria relating to both types of vehicles should be the same:

Yes 4 No 1

A council cannot refuse to licence or renew a vehicle licence based solely on the age of a vehicle. What age policy would you like to see the council adopt in relation to the type of vehicle licence you currently hold?

8 years and off.
6 year old.
The local council should adopt the same policy in hackney trade as is the councils of Rochdale or Bolton Council.
No age limit.
No age policy but car / vehicle quality.
In my opinion age is not a concern as long as the vehicle passes the safety standard.

Current legislation allows a council to fully test a licensed vehicle up to a maximum of 3 times per year. New vehicles up to 2 years old are currently tested only once per year. If you believe that in order to maintain the safety, performance, appearance and comfort of licensed vehicles that they should be subjected to more tests as they get older, what age/test policy would you like to see the council adopt?

(e.g. up 2yrs old 1 test, 2 to 8 yrs old 2 tests, over 8yrs old 3 tests per year)Up to 3 years
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1 test, 3-6 2 tests, over 6- 3 tests. How about looking at mileage rather than age.
Should stay same as until 2013.
Maximum 2 tests no age limit.
2 tests a year is efficient.

In addition to the number of tests a vehicle should be subjected to per year, can you suggest any other conditions such as the 5 fault rule, which will motivate a vehicle owner to maintain their licensed vehicles?

No some people will just do the minimum the easier it is the less they do. Charge a fee for number of faults if 1 fault £10, 5 faults £50.
5 fault rule should be amended or there should be no 5 fault rule i.e. taxi should be repaired before it is plated back.
If the vehicle has more than 15 faults then it should be taken off the road.
Where cosmetics are concerned it should not be fail fault. But it should be put right.

State any other ideas you may have to assist the council in this review process:

There should be more incentive to operate new vehicles i.e. Euro 5 emissions possible priority on ranks.
The hackney rules should stay the same as in 2013.
The local council should not consider the private and public hire vehicles in the same categories as the hackney is purpose built for wheelchair while the private one is not., which means the public hire vehicle is expensive to build again.
I think there should be no age limit for hackney and private hire. As a taxi driver we can't afford to buy a car and getting it plated transferring insurance getting new meter and getting it wired. To do that it cost around £6000. There's not much work to cover the costs. I would like to say old car are better than new car. New cars break down more. They have more problem with engine management and other electrical problem which is more costly for the driver and taking time off work that's where the driver loses money and that's where the problem comes where they can't pay insurance money or they can't pay the radio money. I don't think there should be age limit in Bury because there is not much work in Bury. I can name three councils that don't have age limit, Bolton, Rochdale, Stockport. If these councils don't have age limit why should Bury have age limit. Another thing I would like to point out is when you get drunk person in your car either he will do sick in your car and does not want to pay valeting charge which is £30 or when they are arguing of fare sometime they will kick you car denting the door in or smashing window screen. If its a newer car it will cost us drivers more money for repairs. I don't think public deserve new car. Some do majority of them don't.
Abolish 5 fault rule, give driver chance to fix problem without fault rule.
I like to keep as it is. 5 fault must keep on and only 2 tests from 6 years and over.
No changing keep same please.
No changing please.
Happy with policy want it to stay as it is.

Other comments:

Purpose built hackney carriage vehicles are made specifically for the job and as such they are priced accordingly. The parts are generally more expensive and more robust. The difference should therefore be based around the vehicle itself and not in accordance with the type of licence that it displays.
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