



<b>Classification</b>	<b>Item No.</b>
<b>Open / Closed</b>	

<b>Meeting:</b>	Licensing and Safety Committee
<b>Meeting date:</b>	24 March 2022
<b>Title of report:</b>	Common Minimum Licensing Standards (Stage 2) – Written off Vehicles
<b>Report by:</b>	Executive Director (Operations)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	All

### **Executive Summary:**

This report seeks to review the Council's Policy in relation to written off vehicles.

### **Recommendation(s)**

#### **Introduction**

This report relates to all existing Licensed Hackney Carriage/Private Hire vehicles in Bury and vehicles that are to be licensed as Hackney Carriage/Private Hire Vehicles in Bury in the future.

#### **Recommended Options**

- To review and amend the Council's Policy on written off vehicles to permit existing licence holders with vehicles that have previously been written off (in any category) to renew their licence up to 31 March 2023, pending a full review of this policy standard.
- To note that the existing policy (adopted under MLS Stage 2) will apply only to new vehicle licence applications who will need to submit evidence to prove that the vehicle has not been written off in any category to the Licensing Service in the form of a Full HPI check.

- To note that a full review of this policy standard will be undertaken by the GM Licensing Network in due course.

### **Key considerations**

This is a Council Function that is delegated to the Licensing and Safety Panel by the Council's Constitution.

This paper is in the public domain.

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### **Community impact / Contribution to the Bury 2030 Strategy**

Enterprise – The proposed amendment to existing policy will support and facilitate economic growth and sustainability within the taxi trade, whilst maintaining public safety.

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### **Equality Impact and considerations:**

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to -*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

*The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics*

*There are no Equality and Diversity implications in respect of this report*

### **Assessment of Risk:**

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
Risk – If no amendment to existing policy is agreed the taxi trade will be adversely impacted if they currently have a written off licensed vehicle.	Proposed amendment will allow affected vehicle licence proprietors time to access the clean taxi fund when made available.
Risk – Currently unknown how many vehicles may be affected by the vehicle written off standard as Bury Council have not previously collected this data.	Process being developed to amend existing checks for new/renewal applications to ascertain the vehicle (written off) status.

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### **Consultation:**

Not applicable. This issue has arisen due to the pause and delay of the clean taxi fund and recent understanding that more vehicles may be affected than initially projected.

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### **Legal Implications:**

Under the legislation the Council is required to determine the application. The report is in accordance with the appropriate legislation.

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Members are advised that Licences are regarded as possessions within the terms of the Human Rights Act 1998. Under the Act everyone is entitled to the peaceful enjoyment of one's possessions and so actions interfering with those possessions must be lawful, reasonable and proportionate. It is lawful to impose reasonable conditions as a way of protecting the safety of the travelling public, so long as it is not out of proportion. It is a balancing act between the public interest and the individual's rights.

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### **Financial Implications:**

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

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**Background papers:**

Report and Minutes of the Licensing and Safety Committee – 11 November 2021

Report and Minutes of Full Council – 24 November 2021

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
MLS	Minimum Licensing Standards

**1.0 Background**

- 1.1 Members will recall the consideration of the report relating to the Stage 2 (Vehicles) Minimum Licensing Standards (MLS) on the 11 November 2021. Members of this Committee noted the report and recommended that Council approve and adopt the following in relation to written off vehicles:

No vehicle first being licensed will have been written off in any category and will not be renewed (if previously written off) after 1 April 2022.

- 1.2 On the 24 November 2021, Full Council approved the above decision of the Licensing and Safety Committee.

**2.0 Issues**

- 2.1 At the time the above proposal was made it was envisaged that those licence holders affected would have access to the funding support scheme (Clean Taxi Fund) in January 2022 and it was considered that these vehicles needed to be replaced as soon as possible.
- 2.2 Members will be aware of the trades concern relating to this issue, as it has been raised in public question time on a number of occasions at the Licensing and Safety Committee since the adoption last year. The issues raised, in brief, are:
- Certain categories of written off vehicles are non-structural damage (rendered uneconomical to repair by insurance companies) and the trade have asked that districts reconsider permitting these to be licensed.

- Some licensed vehicle proprietors have indicated that the (currently worded) standard would exclude vehicles that have previously been written off under the non-structural damage category. Such excluded vehicles could be of a relatively low age, be emissions compliant, and could have outstanding finance. Such circumstances could have significant financial implications in the current economic climate.
- If the standard remains too restrictive, it could risk vehicle damage not being reported to insurers and increase the general risk of vehicle safety.

2.3 The Licensing Service have not previously recorded vehicles that have been written off at time of the vehicle licence application. In order to permit certain categories of previously written off vehicles onto the fleet, further vehicle testing requirements will be needed to satisfy authorities as to the safety integrity of the vehicle to be licensed. This needs additional research and consideration by licensing authorities at this stage.

2.4 Existing licence holders who have these vehicles already on the fleet require some flexibility to provide adequate notice to replace the vehicle if necessary and/or to access funding if/when it becomes available.

2.5 Following discussions with the GM Licensing Network, it is proposed to review this standard in its entirety and give consideration to a revised standard in relation to written off vehicles. It is recommended that the standard that has been previously approved be amended as follows:-

- Existing licence holders with vehicles that have previously been written off (in any category) will be permitted to renew their licence up to 31 March 2023.

2.6 It is proposed that the standard (not licensing vehicles that have previously been written off in any category) still apply to new vehicle licence applicants pending the full review of this policy standard. Whilst the position may change upon the conclusion of this review, it is unclear at this stage what would constitute adequate provision to ensure the safety of vehicles that have previously been written off. There is no adverse impact to the existing fleet in these circumstances. It is proposed that any new vehicle coming onto the fleet in Bury as a Hackney Carriage/Private Hire Vehicle, the vehicle proprietor will have to satisfy the Licensing Service that the vehicle has not been written off in any category by supplying evidence which identifies whether the vehicle has been previously written off. The evidence that would need to be supplied to the Licensing Service would be a full HPI check that details the written off status of the vehicle. Any costs associated with this new requirement would have to be paid by the vehicle proprietor prior to making the application to licence the vehicle. Internet research has found that such a check can be undertaken for under £10.00.

2.7 As a previously written off vehicle cannot be licensed after 1 April 2023 if the extension is approved, existing vehicle proprietors at renewal application stage

will need to undertake a full HPI check on their vehicle and provide evidence as previously mentioned at every renewal thereafter.

- 2.8 If a vehicle proprietor wishes to change their licensed vehicle for any reason during the course of the existing vehicle licence a full HPI check would be required on the replacement vehicle.
- 2.9 The Licensing Service will continue to work with the GM Licensing Network and develop a process to enable vehicle applications to be scrutinised as to their suitability to be licensed in Bury.

### **3.0 Conclusion**

Members are requested to consider the following recommendations:

#### **Recommendations**

- To review and amend the Council's Policy on written off vehicles to permit existing licence holders with vehicles that have previously been written off (in any category) to renew their licence up to 31 March 2023, pending a full review of this policy standard.
- To note that the existing policy (adopted under MLS Stage 2) will apply only to new vehicle licence applications who will need to submit evidence to prove that the vehicle has not been written off in any category to the Licensing Service in the form of a Full HPI check.
- To note that a full review of this policy standard will be undertaken by the GM Licensing Network in due course.