

Manchester City Council Report for Resolution

Report to: Licensing and Appeals Committee – 26 February 2018

Subject: Request the consideration of a retrospective only general exemption to the current requirement within the current Hackney Carriage Vehicle Policy for a new or replacement vehicle to be either a Euro 5 or Euro 6 emission standard

Report of: Head of Planning Building Control and Licensing

Summary

This report relates to section 11 of the current hackney carriage vehicle policy, which details the emission standards that new and replacement hackney carriage vehicles have to meet and adhere to during the currency of their licence. The Euro emissions standard changes over time as newer standards are introduced. The report advises that a number of proprietors had, prior to 8 February 2018, purchased replacement vehicles that do not meet the current (Euro 6) or immediately previous (Euro 5) Emission standards). The report highlights two apparent contributory factors:-

- Proprietors having not read the policy prior to purchasing vehicles
- The Council missed the opportunity to enforce the higher standard of emissions (Euro 5 and Euro 6) when they were introduced.

The identified issue has now been remedied (from 8 February 2018) and information has been provided to all Hackney Carriage Vehicle proprietors directly via email and on the Taxi Licensing Web pages. This highlights the change in emission standards and reminds proprietors of the need to comply with the policy in full prior to purchasing a vehicle.

Recommendations

In order to deal with vehicles licensed that may not be compliant section 11 of the policy, the following recommendations are made:

1. An exemption to section 11 of the HCV Policy will only apply to hackney carriage vehicles that have been purchased prior to 8 February 2018.
2. That any such vehicle must fully comply with all other aspects of the current hackney carriage vehicle policy except for the Euro 5/6 emission standard.
3. That such vehicles must pass the mechanical vehicle inspection on the first occasion:-
 - with 3 or less major fail items

- with body work that meets the Council’s current ‘exceptional condition’ criterion.

In relation to Hire Companies who purchase vehicles to replace accident damaged or mechanical failure hackney carriage vehicles.

4. It is proposed that consideration be given to whether a Hire Company
 - that has in the previous year (8 February 2017 to 7 February 2018) supplied replacement vehicles to Manchester licensed hackney carriage(s)
 - Can supply vehicles, purchased prior to 8 February 2018, that comply with all aspects of the hackney carriage vehicle policy except section 11 and
 - Can continue to supply such vehicles until 7 February 2019 after which all replacement vehicles must be compliant with all aspects of the hackney carriage vehicle policy

In addition the following recommendation should also be considered

5. Any vehicles whether purchased by a company or an individual proprietor on or after 8 February 2018 must comply with all aspects of the current Hackney Carriage Vehicle Policy.

Manchester Strategy Outcomes	Summary of the contribution to the strategy
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	Manchester currently has a Hackney Carriage Vehicle Policy to provide a fully accessible Taxi fleet, which supports diversity and opportunity within the economy.
A highly skilled city: world class and home grown talent sustaining the city’s economic success	Not applicable to the content of this report
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The current Hackney Carriage Vehicle Policy is one of the most equitable in the country, supporting consistency of full accessibility within the entire fleet, ensuring that no users have to make special arrangements.
A liveable and low carbon city: a destination of choice to live, visit and work.	The current Hackney Carriage Policy seeks to support Manchester residents and visitors by providing a high standard and fully accessible fleet as an integral part of the transport offer. The Policy also seeks to support low carbon emissions by requiring the most recent emissions standards on vehicles.
A connected city: world class infrastructure and connectivity to drive growth	The Hackney Carriage fleet is an integral part of the public transport network in Manchester which aspires to have world class standards, accessibility and vehicles.

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
 - Risk Management
 - Legal Considerations
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Financial Consequences – Revenue

None

Financial Consequences – Capital

None

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Background documents

Report of Licensing and Appeals Committee 2 July 2013
Report of Licensing and Appeals Committee 27 August 2013
Current Hackney Carriage Vehicle Policy

1.0 Introduction

- 1.1 In August 2013 the Council agreed the current Hackney Carriage Vehicle Policy.
- 1.2 Section 11 of the Policy (Conditions of Fitness) advises the required standard of exhaust emissions that a vehicle must reach when being licensed for the first time or put on as a replacement. In this regard the policy states:

11 Exhaust Emission Standards

When a vehicle is first licensed (including a replacement vehicle) it is expected to meet (and maintain) the current or immediate previous Euro emission standard. This standard must be maintained throughout the period that the specified vehicle is licensed.

- 1.2.1 The policy allows:-:

Where a temporary replacement vehicle has been licensed to replace a repairable accident damaged vehicle, the original vehicle can be reinstated on the licence in accordance with the conditions of fitness in place at the time the vehicle was first licensed

- 1.2.2 The policy also allows for an exemption to the policy in terms of the following:

No vehicle will be licensed as a hackney carriage unless it is fit for purpose and conforms to the requirements in this document, unless the Council exempts a vehicle from those requirements after a request by an applicant and where, having regard to the exceptional circumstances considers it reasonable to do so.

- 1.3 The Emission standard was considered appropriate by the Licensing and Appeals Committee with reference to the Council's air quality action plan, which aims to tackle all major sources of pollution including transport. The Licensing and Appeals Committee introduced the Emission standard into the Policy with a view to improving air standards in the city.

2.0 Background

- 2.1 The policy states that the current and previous emission standard that should be complied with. The European directive states that:-

Euro 5 emissions applied to new passenger car approvals from 1 September 2009 and applied to most new registrations from 1 January 2011

Euro 6 emissions applied to new passenger car approvals from 1 January 2014 and applied to most new registrations from 1 September 2015

- 2.2 Regardless of when a new Emissions standard is applied, vehicles could have been manufactured at a previous standard and not been first registered, in

some instances, for a number of years. So the registration date is not always indicative of the emission standard of the vehicle.

2.3 In relation to TX vehicles it is therefore essential that the vehicle Vin number on the vehicle log book (V5) is used to determine the correct Euro standard.

2.4 Table 1 below provides the information required for a proprietor to determine the Euro emission the vehicles complies with. Information is also available directly from the manufacturers.

Table 1:

Vehicle Vin number (last 6 digits)		
From	To	Euro
102767	150000	Euro 2
150001	200000	Euro 3 Level A
200001	211499	Euro 4 Level B
211500	215999	Euro 5
216000	Current	Euro 6

3.0 Proposed Exemption

3.1 It has recently become apparent that the Emission standard within the Hackney Carriage Vehicle Policy 2013 has not been applied in the testing of vehicles.

There are two contributory factors

- Proprietors not reviewing the policy prior to purchasing vehicles
- The Council missing the opportunity to enforce the higher standard of emissions (Euro 5 and Euro 6) when they were introduced in September 2015.

3.2. A number of proprietors have purchased hackney carriage vehicles that comply with the current age policy (less than 12 years of age), but may not comply with the current (Euro 6) or previous (Euro 5) required emission standard. It is important to note that where vehicles are found not to be compliant, the vehicles were already purchased prior to applications being made and proprietors should ensure any vehicle they purchase is compliant prior to making an application.

3.3 The application is checked in two stages prior to the granting of a licence; the initial application is checked by the Licensing Unit's Taxi Licensing Team who conduct all necessary checks with regard to the proprietor themselves, and

check the vehicle for basic compliance with the policy i.e. make, model, age and colour. The application is then referred to the Council's Vehicle Testing facility at Lawton Street Shared Services for a full check and test of the vehicle against the Policy (Conditions of Fitness) - if compliant with the policy, the licence is then granted.

- 3.4 Normally where a vehicle does not meet the requirements of the hackney carriage vehicle policy individual applications would be brought before the Committee for consideration. Neither Lawton Street Shared Services nor the Licensing Unit identified that the Emissions standard had changed in 2015.
- 3.5 Given that the standard has not been enforced to date, and the change had not been separately highlighted to proprietors, it is considered unreasonable to revoke vehicle licences on the basis that they do not now comply with section 11 of the policy. This has now been rectified as of 8 February 2018, when information was provided to all Hackney Carriage Vehicle proprietors directly via email and on the Taxi Licensing Web pages, highlighting the change in emission standard and reminding proprietors to review the policy in full prior to purchasing a vehicle. Therefore it is recommended that consideration should be given to a retrospective exemption of section 11 of the current Policy. It is understood that VOSA notify testing stations directly of any changes to testing regulations and the Licensing Unit have received assurance from Lawton Street that any future changes will be notified and adhered to rigorously.
- 3.6 The Unit is currently establishing how many vehicles may fall within this proposed exemption. It is fully accepted that this is not a position the Council aspires to be as a forward looking City region in support of reducing carbon emissions. The Licensing Unit fully support those strategic aims and are working with colleagues and TfGM in work to build the infrastructure for moving toward more electric vehicles within the City. Whilst this proposal will temporarily stall progress in this one area, the current Policy remains of a much higher standard than many other authorities, including the required emissions standard of licensed vehicles and will be enforced from this point forward.

4.0 Recommendations

- 4.1 The following recommendations are made to remedy the situation:
1. An exemption to section 11 of the HCV Policy will only apply to hackney carriage vehicles that have been purchased on or before 8 February 2018.
 2. That any such vehicle must fully comply with all other aspects of the current hackney carriage vehicle policy except for the Euro 5/6 emission standard.
 3. That such vehicles must pass the mechanical vehicle inspection on the first occasion:-
 - with 3 or less major fail items

- with body work that meets the Council's current 'exceptional condition' criterion.

Hire Companies

- 4.2 There are a number of hire companies who purchase hackney carriage vehicles in order to supply the trade with replacement vehicles, when a licensed vehicle is off the road due to mechanical failure or following an accident. Although such companies are not licensed proprietors they are stakeholders. It is likely that such companies have invested in replacement vehicles that do not meet the Council's specified Euro standards (Euro 5 or Euro 6).
- 4.3 In determining this matter the Committee may also wish to consider a proposed exemption to the Hackney carriage Vehicle Policy specifically for Hire Companies. In making the following proposals it is considered that such an exemption would only apply to Companies who currently interact with the Licensing Unit.
- 4.4 It is proposed that consideration be given to whether a Hire Company:
- that has in the previous year (8 February 2017 to 7 February 2018) supplied replacement vehicles to Manchester licensed hackney carriage(s)
 - Can supply vehicles, purchased on or before 8 February 2018, that comply with all aspects of the hackney carriage vehicle policy (except in relation to the current Euro 6 or 5 emission standard). and
 - Can continue to supply such vehicles until 7 February 2019 after which all replacement vehicles must be compliant with all aspects of the hackney carriage vehicle policy.
- 4.5 Finally, it is recommended that any vehicles whether purchased by a company or an individual proprietor after 8 February 2018 must comply with all aspects of the current Hackney Carriage Vehicle Policy.

5.0 Legal Considerations.

- 5.1 The meeting should be conducted as though it were a hearing, and the rules of natural justice should apply. The Committee should:
- Ensure the hearing is fair and there is no actual (or perception of) bias or pre-determination
 - Determine how the hearing will be conducted, and may adjourn the hearing if necessary
 - Give reasons for the decision either at the hearing or in any case in writing as soon as reasonably practicable after the hearing
- 5.2 Individuals will be given an opportunity to speak at the meeting. The Chair will determine, based on the number of people who wish to speak, how long each individual will be given.

5.3 Any decision to revoke a licence is appealable to the Magistrates' Court.

5.4 Any decisions or requirements imposed by the Council that are deemed unreasonable could be subject to a legal challenge.

5.4 Human Rights

- A person has the right to peaceful enjoyment of their possessions and the protection of property.
- Once granted, a licence is a possession
- No one can be deprived of their property except in the public interest and subject to the conditions provided for by law. This does not, however, impair the enforcement of such laws as necessary to control the use of property in accordance with the general interest
- When considering matters relating to the grant, revocation, renewal or refusal of licences (or the placing of conditions on licences) consideration must be given to whether those rights are affected and whether interference (any interference must be proportionate) with those rights is permissible by reason of the matters outlined within this report.

5.5 Crime and Disorder Act 1998

- the likely effect of the exercise of the Council functions on crime and disorder
- the need to do all that is reasonable to prevent crime and disorder in its area. (It is not considered that the contents of this report have any such effect)

5.0 Key Policies and other considerations

5.1 (a) Equal Opportunities

There are no equal opportunities issues arising from this report.

5.2 (b) Risk Management

As with any such decision made by the Council it can be challenged by way of 'Judicial review'.

5.3 (c) Legal Considerations.

There are no additional legal considerations to those already highlighted within this report.

6.0 Conclusion

6.1 The report details the decision of the Licensing and Appeals Committee in 2013 to introduce a Hackney Carriage Vehicle Policy. The report makes reference to section 11 of the Policy (Conditions of Fitness), which is the subject of this report.

6.2 The report advises a number of proprietors have purchased hackney carriage vehicles that comply with the current age policy (less than 12 years of age),

but may not comply with the current required emission standard (Euro 6 or Euro 5). The following attributable factors were identified:

- proprietors have not read the appropriate policy and guidelines prior to the purchase of their vehicle
- The Council missed the opportunity to enforce the higher standard of emissions (Euro 5 and Euro 6) when they were introduced.

6.3 Section 4 of the report outlines a proposed exemption to the current policy.

6.4 The report seeks to acknowledge the importance of upholding key policies that seek to achieve the Council's strategic ambitions for air quality.