

**Manchester City Council**  
**Report for Information and Resolution**

**Report to:** Licensing and Appeals Committee – 3 June 2019

**Subject:** Hackney Carriage Vehicle Policy – Consideration of temporary extension to the age limit

**Report of:** Head of Planning, Building Control and Licensing

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**Summary**

Hackney Trade representatives have put forward a proposal for a temporary extension to the current age limit contained within the existing Hackney Vehicle Age Policy. The report sets out the rationale behind the proposal and provides the Committee with relevant information, considerations, risks and options to support a balanced and informed decision.

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**Recommendations**

1. The Committee are asked to consider whether to extend the current HCV age limit
  2. In the event the Committee do want to extend the current age limit; it is recommended that:
    - i. The HCV age limit is extended to a maximum of 13 years from the date of first registration stating:  
*No Hackney Carriage Vehicle licence will be issued or renewed (including replacement vehicles) for a vehicle more than 13 years since the date of first registration in this or any other country.*
    - ii. The extension is limited to a maximum of 12 months and is subject to further review/amendment following GM Minimum Standards proposals.
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<b>Manchester Strategy Outcomes</b>	<b>Summary of contribution to the strategy</b>
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	The Taxi Licensing Policies are aimed primarily at the core function of Licensing authorities which is ensuring public safety. Beyond that, the Service aims to support Licensees by understanding issues that impact on their industry and reflect that in policy wherever appropriate.

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.	<p>The Taxi Licensing Service seeks to support those who wish to work within the Taxi and Private Hire industries to do so in partnership and pride with Manchester, where the corresponding policies and standards are high in order to protect and safeguard our communities and visitors.</p> <p>Vehicle policies seek to establish low carbon emissions and contribute to better air quality in the City.</p>
A connected city: world class infrastructure and connectivity to drive growth	Not applicable to the content of this report

**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**

Statement of Policy: Conditions of fitness, application process and guidelines relating to Hackney Carriage Vehicles 2013 (Hackney Carriage Vehicle Policy)

- 1.0 The Council currently imposes age limits in respect of the licensing of Hackney Carriage vehicles. The current policy is that Hackney carriage [black cabs] are licensed up to 10 or 12 years of age dependent upon the emissions they produce.
- 1.1 The wording of the current age policy, which is contained within the Hackney Carriage Vehicle Policy allows a hackney carriage vehicle that is 11 years and 11 month old to be licensed and the vehicle would therefore be 13 years old before being removed from the fleet.
- 1.1.2 Hackney Trade representatives have put forward a proposal for a temporary extension to the current age limit.
- 1.2 The context for the request from the Trade relates principally clean air and climate change agenda. Members will be aware the Government has placed a legal responsibility for compliance with NO2 limits with local authorities; this requires bodies such as Greater Manchester (GM) to produce and implement a Clean Air Plan, which includes a requirement to create a Clean Air Zone (unless compliance can be proven to the set timescale through alternative means).
- 1.3 The 10 GM Local Authorities, Greater Manchester Combined Authority (GMCA) and Transport for Greater Manchester (TfGM) completed detailed local modelling of options, and submitted an Outline Business Case to Government at the end of March 2019. This details proposals to introduce a Clean Air Zone across the whole of Greater Manchester, and a request for a £28m 'Clean Taxi Fund' to support the upgrade of non-compliant taxi and private hire vehicles. Following a public Conversation about Clean Air (currently live until end June 2019) and a formal Clean Air Public Consultation to follow planned for August 2019, a report will be provided back to the GMCA recommending a Final Business Case to Government by the end of 2019.
- 1.4 If implemented, all categories of a Clean Air Zone would include Taxi and Private Hire Vehicles; therefore both of our trades are currently likely to be affected; this could include being subject to a daily charge if the vehicle is not compliant with the requisite Emissions Standards. Engagement has already begun with the Taxi and Private Hire Trades across GM, to further understand the risks and challenges and how best use could be made of any financial support package provided by the Government to bring vehicles into compliance.

## **2.0 Clean Air and Minimum Standards**

- 2.1 Concurrently, the 10 Greater Manchester Authorities are working on harmonising Taxi and Private Hire licensing standards. Whilst the detail of the proposal is yet to be formally finalised, it will include proposals regarding a range of issues relating to vehicle standards and specifications, including emissions requirements. Clearly, these standards will be mindful of the

statutory requirements around Clean Air Emissions standards.

2.2 The GM authorities are mindful of the need to align the two work packages. Manchester is working closely alongside the other Licensing Authorities from GM together with TfGM to understand and model in more detail; the impacts, risks, and learning from other cities and regions that have implemented Clean Air Zones. Further engagement with the trade is planned later this month (June 2019).

2.3 The current outline proposed timeframe for implementation of minimum standards is:

- Trade briefings across GM - June 2019
- Formal Public Consultation – Summer 2019
- Final Minimum standards confirmed end of 2019
- Minimum Standards implementation from April 2020 onwards – with anticipation that different standards will require different lead in times and local arrangements may be required.

### **3.0 Trade concerns**

3.1 At Trade engagement meetings in March 2019, representatives from the Hackney Trade fed back to officers and lead Members a number of concerns including:

- The general availability of emissions compliant vehicles (second hand) in the hackney carriage market nationally
- Where manufacturers (other than London Electric Vehicle Company who make the TX London style cab vehicles) are bringing new purpose built or adapted vehicles for Hackney Carriage use onto the market, they do not conform to the current MCC HCV Policy vehicle specification
- The affordability of new TX vehicles (only electric vehicles available new in TX models)
- The electric vehicle charging infrastructure improvements required to support a wholesale move towards an electric fleet
- Difficulties in obtaining finance.

3.2 The above areas of concern are issues being picked up either by the GM Air Quality work or the wider MCC Hackney Carriage Vehicle Policy Conditions of Fitness Review. However, there is a specific area of concern the trade has requested the Committee consider.

3.3 This relates to the aging Hackney Carriage fleet operating in the City. A significant number of proprietors will be required to replace their current vehicles in the coming months, however, the decision to do so is at a time of some uncertainty whilst there are three important relevant matters still pending:

- the final minimum standards with regards to vehicle specification that are currently being reviewed for potential use by all Greater Manchester Authorities

- the review of MCC's HCV conditions of fitness (which may modify the vehicle specification and options available to proprietors)
- Government's response to a Final Business Case on the Clean Air Plan and the possible provision of a Clean Air Tax Fund to support proprietors upgrading their vehicle to emissions compliant vehicles

3.4 The Committee will recognise that as vehicles could be replaced on a vehicle licence during the currency of that licence, and that this happens frequently for a number of reasons, the age profile of the fleet changes almost daily.

**Table 1** below sets out the current age profile of the licensed MCC Hackney fleet providing numbers according to the anticipated vehicle age at the time, the corresponding licence is due for renewal; and the current number of vehicles of each age category correct as of 16 May 2019. A snapshot of the data was also taken in July 2018 (although it was not recorded at that time how many brand new vehicles were licensed on the fleet):

Licence	Age	Number at time Renewal due	Number as of 16.5.19	Number as of 11.7.18
HV	0	22	70	--
HV	1	57	27	31
HV	2	29	26	24
HV	3	42	55	48
HV	4	64	77	69
HV	5	90	113	85
HV	6	102	100	100
HV	7	106	126	162
HV	8	147	149	120
HV	9	135	126	131
HV	10	115	111	94
HV	11	105	73	104
HV	12	59	31	96
HV	13	11	1	25
HV	14	1	0	2

3.5 The current HCV Policy states at 3.1 of the Policy:

- a. *No Hackney Carriage Vehicle licence will be issued or renewed (including replacement vehicles) for a vehicle more than 12 years since the date of first registration in this or any other country.*
- b. *The Council may waive the age restriction in the case of individual vehicles where an application is made and the Council considers that the vehicle is of an exceptional standard*
- c. *Any request for an exemption due to a licensed vehicle being in 'exceptional condition' will normally be granted for a 12-month period, after which time a further application would have to be made.*

3.6 In view of the matters pending (set out in 3.3) which are likely to have implications for the Trade, its representatives have asked the Committee to consider a temporary extension to the current age limit element in the policy. This would allow all current proprietors to be able to make an informed choice about vehicle purchases and replacements, and for those replacing vehicles in the months immediately preceding a possible Clean Air Fund, are able to benefit from the opportunity this would potentially provide for upgrading to a zero emissions capable vehicle.

#### **4. Options, Risks and considerations**

4.1 There is the option for the Committee to consider extending the current age limit for a set period of time. If the Committee is minded to do so, it is recommended the limit be extended to 13 years, for a period of no more than 12 months. This, it is believed, would provide sufficient time for relevant decisions to be made with regards to Minimum Standards and Clean Air solutions.

4.2 The Committee will also note that the Council's existing HCV Policy in any event is subject to further possible change, following the outcome of the Minimum Standards public consultation and resultant decisions, at the end of 2019/beginning of 2020.

4.3 If the Committee is minded to temporarily extend the age limit beyond the current 12 years, it is essential there are assurances in place to avoid compromising public safety. In this regard the following would mitigate any potential risks:

- i. The vehicle would still be subject to three tests per year. As per current practice, a vehicle would be suspended until such a time as it passes the vehicle compliance test
- ii. The current policy is worded so that a vehicle could be licensed up to the day before its '12<sup>th</sup> birthday'. Vehicle licenses are issued for 12 months and so the current position is that we allow vehicles on the fleet that are up to 13 years of age in any case (that are not of exceptional condition). An extension to this would effectively extend the potential age limit to almost 14 years of age (unless worded otherwise). It should be noted by the Committee that it is the intention of officers to propose amending the wording accordingly of any future

HCV Policy when fully revised. The revision of the wording would only allow vehicles to be licensed to the date of they are 12 years of age (or whatever the age policy is) and not allow them to be licensed beyond that age ie a vehicle that is licensed when it is 11 years and 10 months old could only be licensed until it was 12 years of age (from the date of first registration).

- iii. Officers have checked the current Hackney Carriage vehicle age limits of other cities and provide the following data (*The data has been taken from documents published on the relevant web pages of the cited authorities and has not been verified further*)
  - Transport for London – currently 15 years age limit (recent consultation closed in April 2019 proposing to reduce age limit to 12 year by 2022)
  - Birmingham City Council – currently no age limit
  - Leeds City Council – 8 years age limit for WAVs (*Leeds do not have a purpose built HCV requirement and licence saloon cars as HCVs – the age limit on all saloon cars is 7 years and the maximum age limit for WAVs is 8 years*)
  - City of Wolverhampton Council - 16 years age limit
- iv. Any extension (if granted) is likely to be temporary given that the GM Minimum Standards work will propose changes to the current Policy in any event; and possible impacts of a CAZ
- v. Given the data in **Table 1** above, this will only apply to a small proportion of the existing fleet.

4.4 The main consideration and driver for this proposal from the Hackney Trade is those Hackney Carriage Proprietors whose vehicles are nearing the current age limit within the next 6-9 months. The concern is that they could purchase a vehicle that does not conform to new standards/requirements as a result of the GM work packages; and miss the opportunity for financial support through options provided via a Clean Air Taxi Fund - if this is obtained from Government. In balancing these considerations, the Committee may want to also consider the following points:

- A number of Hackney Carriage Proprietors have been replacing vehicles in the months leading up to this proposal and will possibly feel disadvantaged by any temporary change to the Policy. Notwithstanding, the nature of any Policy change is that there is always a 'cut off point' and some people are likely to be affected more than others
- Table 1 above also evidences that the HCV fleet at the upper limit has reduced in age over the last 10 months (although the average age remains at just under 8 years of age)
- Any changes to Policy and vehicle standards or specification that are agreed under proposed GM Minimum standards, would be subject to a consideration for a gradual implementation and possible grandfather rights to account for those proprietors who have invested in new/replacement vehicles recently



- It is an option for proprietors who need to consider replacing their vehicles soon, to consider options to lease vehicles pending decisions of the GM work packages
- There is a risk that any extension to the current age limit policy, places additional pressures on a possible Clean Air Taxi Fund (should one be obtained) by potentially increasing the number of Hackney Carriage Proprietors eligible to access such funds

## **5. Legal Considerations.**

- 5.1 In the event that the amendment to the policy to extend the age limit to 13 years of age for all hackney carriage vehicles is adopted by the Committee this would have the effect of removing the exceptional circumstances exception for well-maintained vehicles from the policy. The Court has in the case of *Rv Hyndburn Borough Council ex p Rauf and Kasim* previously considered whether it is lawful for a Council to introduce an age policy for vehicles which does not contain an “ exceptional condition “ clause. The Court held that the policy was lawful and gave the following reasons:-

“... the local authority did give such consideration as was appropriate to this application. It indicated in the letter which it wrote in reply to it that the applicant was refused in line with the policy and that did not indicate that it was shutting its ears to any application, either considered individually or an application which amounted to an application to change the policy as a whole. In those circumstances, it seems to me, the stance adopted by the Local Authority in relation to the application was a lawful one ....”

The Judgment in this case therefore indicates that a policy need not contain an exceptional condition exemption to be lawful as long as the Council does not fetter its discretion to depart from the policy when appropriate.

## **6.0 Key Policies and other considerations**

- 6.1 (a) Equal Opportunities  
There are no equal opportunities issues arising from this report.
- 6.2 (b) Risk Management  
As with any such decision made by the Council it can be challenged by way of ‘Judicial review’.
- 6.3 (c) Legal Considerations

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

## **7.0 Conclusion and recommendations**

- 7.1 The report sets out the relevant matters for the Committee to consider in relation to the request to extend the current vehicle age limit. It also identifies options and associated potential risks.

7.2 If Committee is minded to extend the current age limit; it is recommended that:

- iii. The HCV age limit is extended to a maximum of 13 years from date of first registration stating:  
*No Hackney Carriage Vehicle licence will be issued or renewed (including replacement vehicles) for a vehicle more than 13 years since the date of first registration in this or any other country.*
- iv. The extension is limited to a maximum of 12 months (or less) and is subject to further review/amendment following GM Minimum Standards proposals.