

BRISTOL CITY COUNCIL

PUBLIC SAFETY AND PROTECTION COMMITTEE

15 August 2017

Report of: Strategic Director, Neighbourhoods

Title: Hackney Carriage Vehicle Policy – Amendment to Grandfather Rights Provision and Emissions Policy

Ward: Citywide

Officer Presenting Report: Nick Carter, Regulatory Services Manager

Contact Telephone Number: 0117 357 4900

RECOMMENDATION

That the Public Safety and Protection Committee:

- a) **Agree to allow the renewal of Hackney carriage licences following the transfer of a licence from a proprietor who has the benefits of the grandfather rights provision to a new proprietor who does not have the benefit of Grandfather Rights with effect from 1 September 2017.**
- b) **Agree to allow an amendment to the policy to specify that other vehicles e.g. petrol driven Euro 5 emission standard vehicles may be acceptable provided they comply with all aspects of the policy.**

Summary

1. On 28 February 2017 members agreed a number of policy changes regarding the administration of Hackney carriage licences. One of those changes was to allow the continuation to April 2018 of what are referred to as Grandfather Rights whereby existing proprietors of Hackney carriage licences at the last policy review in 2008 had certain rights with regard to continuing to licence vehicles that complied with an earlier vehicle specification. Linked to these rights was a restriction that prevented these vehicles being transferred and licensed to new entrants to the Hackney carriage trade. As part of the lengthy consultation with trade representatives during the full policy review it was agreed that this restriction would be removed. The February report intended this to be case with immediate effect. The purpose of this report is to clarify that whilst grandfather rights are continuing to April 2018 the restriction on transfers and subsequent licence renewal is not.

A second change was to specify that vehicles licensed on the first occasion (which were replacing existing licensed Hackney carriages) must be Euro 6 or

higher standard. It is proposed to amend the policy to specify that Euro 5 standard petrol vehicles (that comply with all other elements of the policy) may also be acceptable. Such vehicles are less polluting than Euro 6 diesel vehicles however they only represent a very small proportion of the market which is dominated by diesel powered vehicles.

2. The significant issues in the report are:

- a. This report clarifies the position regarding Grandfather Rights and will enable licences to be transferred and renewed to proprietors who did not hold licences in 2008.
- b. To amend the policy to state Euro 5 petrol vehicles may also be acceptable.

Policy

3. The granting of Grandfather Rights provisions in April 2008 was to enable existing proprietors to continue licensing vehicles to the earlier specification in order to allow time to adjust to the new policy requirements which would result in them having to change their vehicles. The purpose of restricting the transfer and subsequent renewal to persons who did not have these rights was to encourage new entrants to the trade to purchase new Hackney carriages. The restriction did not work and resulted in various practices being used to circumnavigate the provision, furthermore it was a disincentive to existing proprietors to upgrade their vehicles as they could not legitimately sell them on.
4. The requirement for replacement Hackney Carriages to be Euro 6 or higher standard was intended to improve air quality. Hackney carriages are a significant source of air pollution, particularly in the city centre (an Air Quality Management Area). Many of the hackney carriages in Bristol's fleet are older diesel-based vehicles compared to the average age of private hire vehicles in the city. In many cases a single diesel car can produce more Nitrogen Oxides (NOx) and Particulate Matter (PM) than a modern lorry or bus as modern larger vehicles are fitted with a wide range of equipment such as filters, and use fuel additives such as Ad-Blue. The annual UK government legal objective for nitrogen dioxide is exceeded throughout wide areas of Bristol close to the busiest roads in the centre and along the main arterial routes. There are also a number of locations where the short term hourly UK government legal objective for nitrogen dioxide is exceeded. It is recognised that a Euro 5 petrol vehicle will emit less pollution than a Euro 6 diesel and as such it would be beneficial to permit them to be licensed.

Consultation

5. Internal:

- a. Legal Services (see below)
- b. City Innovation and Sustainability

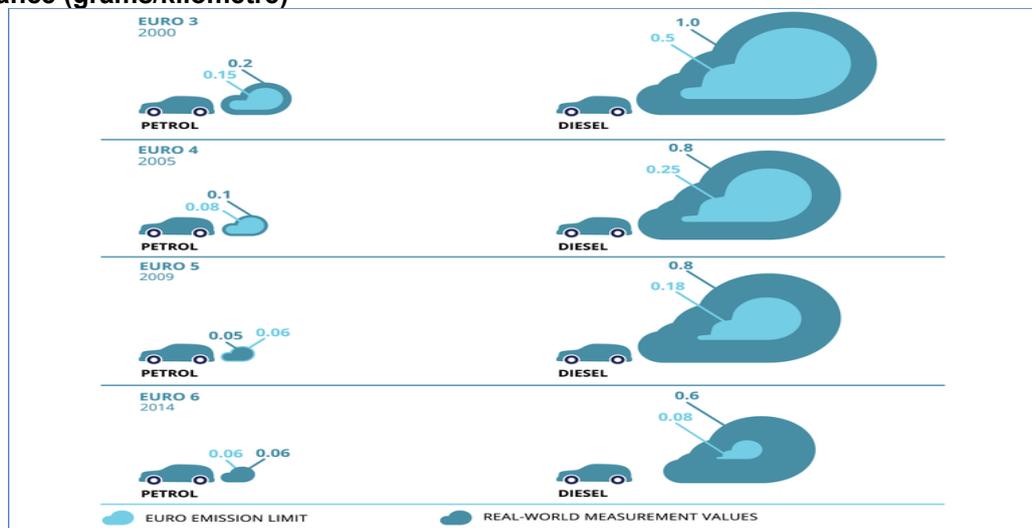
6. External:

The Council has consulted with representatives of the taxi trade.

Context

7. Hackney carriages play an integral part of the local public transport infrastructure. They provide a flexible form of public transport and can play an increasingly important role in improving accessibility.
8. The overriding aim of the Council as the licensing authority is to protect the safety of the public. The Hackney Carriage Vehicle Policy aims to ensure that licensed vehicles in Bristol are safe, comfortable, properly insured, accessible, and are not unnecessarily polluting.
9. It is considered that the current policy with regard to Grandfather Rights places unnecessary restrictions on the trade which do not further the above aims. As such it is proposed the restriction is lifted with immediate effect. For the avoidance of doubt vehicles which do not comply with the current Hackney Carriage Vehicle Policy (i.e. the policy that applies to vehicles not licensed under Grandfather Rights) will still not be licensed past 31 March 2018.
10. The policy with regard to vehicle emission standards aims to improve air quality. The alteration to permit Euro 5 petrol vehicles will support this aim. City Innovation and Sustainability have advised that the latest real-world vehicle emissions testing data has demonstrated that NOx emissions from Euro 5 petrol vehicles are on average significantly lower than the NOx emissions from the latest Euro 6 diesel engine vehicles. As a result, the proposed changes are seen as positive from an air quality perspective and will allow greater flexibility in the licensing policy. It would allow slightly older but significantly cleaner Euro 5 petrol engine vehicles to be licensed if those vehicles are available. This is demonstrated by the below table:

Comparison of emissions of NOx for different car Euro standards, by emission limit and real-world performance (grams/kilometre)



Proposal

11. To delete the Grandfather Rights provisions which prevented licences in respect of vehicles licensed under Grandfather Rights from being renewed by the new proprietor. Such vehicles will still not be licensed past 31 March 2018. This means vehicles which are over 10 years of age and/or do not benefit from European Community Whole Vehicle Type Approval will not be licensed past this date.
12. To amend the policy paragraph 2 to read as follows (alterations underlined):

Age Limit and Emissions Policy

2. *Vehicles presented for licensing on the first occasion shall be EURO 6 or higher standard and less than three and a half years old from the date of registration or, in respect of vehicles that have been imported other than as new into the United Kingdom, less than three and a half years old from the date of manufacture (In the remainder of this policy reference to date of first registration with regard to vehicles which are imported should be construed as date of manufacture). Other vehicles e.g. a petrol driven Euro 5 emission standard vehicle may be acceptable provided it complies with all aspects of the policy.*

Other Options Considered

13. Do nothing: The policy can be left in its present form. However this places an unnecessary restriction on members of the trade and may have a negative impact on air pollution.

Risk Assessment

14. As set out in the below tables:

The risks associated with the implementation of the recommendations of the report							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation).	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
		Impact	Probability		Impact	Probability	
1	Any policy decision is open to challenge	Low	Low	Officers have consulted with key representatives of the taxi trade.	Low	Low	

The risks associated with <u>not</u> implementing the recommendations of the report							
No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation)	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
		Impact	Probability		Impact	Probability	
1	Failure to amend the policy	Medium	Medium	Determine and publish the	Low	Low	

will place an unnecessary restriction on the trade			revised policy			
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Equalities Impact Assessment

15. An Equality Impact Assessment has been produced and is attached as **Appendix A**.

Legal and Resource Implications

Legal:

The Council has a discretion under the relevant legislation to decide which hackney carriage vehicles it will licence as far as age, size, type and colour are concerned. In applying this discretion members must have regard to the Council's obligations under human rights and equalities legislation.

The proposals amount to a relaxation of current policy criteria relating to grandfather rights and emissions and are therefore unlikely to impact upon human rights or disproportionately impact on one group with a protected characteristic under the equalities legislation compared to their counterparts in another group.

There is no statutory duty to consult upon the proposed policy changes and nor is there a general common law duty to do so. A duty of consultation will however exist in circumstances where there is a legitimate expectation of such consultation, usually arising from an interest which is held to be sufficient to found such an expectation, or from some promise or practice of consultation. In this case the Council has consulted with representatives from the taxi trade in line with previous practice.

Where a consultation process is undertaken, case law guides on what constitutes lawful consultation and from this some key guiding principles have been established, in summary that those being consulted must:

- (i) be provided with material upon which a decision is likely to be made;
- (ii) be given enough time for intelligent consideration of that material and to respond to it;
- (iii) be given the opportunity to make considered representations;
- (iv) have their representations conscientiously considered.

It is therefore important that members are satisfied that that any consultation process allows sufficient time to enable any person or body wishing to make representations to obtain relevant material, to consider it and to put their representations to the Council.

Legal advice given by: Lynne Harvey, Solicitor, Legal Services

Financial:

This policy sets out amendments to vehicle transferral and licence restrictions

and acceptable emission standards for petrol vehicles. No financial impact is planned.

Financial advice given by: Jemma Prince (Finance Business Partner) 27/7/17

Land

Not applicable

Personnel

There are no HR implications arising from the content of this report.

Personnel advice given by: Alex Holly, HR Business Partner, Talent and Resourcing

Appendices:

Appendix A Equality Impact Assessment

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None