

<u>REPORT TITLE</u>	Draft Taxi Licensing Policy for Newcastle under Lyme – Vehicle Age Limits
<u>Submitted by:</u>	Head of Business Improvements, Central Services and Partnerships
<u>Portfolio:</u>	Safer Communities
<u>Ward(s) affected:</u>	All

Purpose of the Report

To consider additional recommendations in relation to the age policy for Private Hire and Hackney Carriage vehicles operating in the Borough.

Recommendation

- a) That, in light of the decision taken by this Committee at its meeting on Monday 22nd September 2014 which stated:

‘That the previous policy resolution relating to the age of Hackney Carriage Vehicles, agreed by Council on 16th April 2014, is not implemented’,

the current eight year age limit for Private Hire vehicles is suspended, pending the new Taxi Licensing Policy coming into being in March 2015
- b) That any Hackney Carriage and Private Hire licences issued to vehicles over 8 years of age from 21st October 2014 will only continue to a full twelve month period if they meet any ‘exceptional circumstances’ conditions that may be contained within the final Taxi Licensing Policy.
- c) That vehicles falling into the category above will have until 31st March 2015 to meet any “exceptional condition” standards that may be contained in the final Taxi Licensing Policy.
- d) That where a vehicle fails to meet the ‘exceptional circumstances’ conditions, the licence will be deemed expired and a refund made as set out in the report.

Reasons

Following the decision of the Public Protection Committee at its meeting on 22nd September 2014 a letter was received from representatives of the Private Hire trade requesting that, as a result of the resolution passed on 22nd September 2014, the age limit of eight years for Private Hire vehicles is also suspended pending implementation of the new Taxi Licensing Policy in March 2015. By agreeing to this recommendation parity will be maintained between Private Hire and Hackney Carriage vehicles operating in the Borough.

1. Background

Vehicle Age Policy

- 1.1 At the meeting of the Public Protection Committee held on Monday 22nd September 2014, the following was resolved:

1. That the previous policy resolution relating to the age of Hackney Carriage Vehicles, agreed by Council on 16th April 2014, is not implemented on 1st January 2015

- 1.2 In order to maintain parity between Private Hire and Hackney Carriage vehicles and considering the fact that the age policy is currently under review it would appear sensible to treat all vehicles in the same manner and as such suspend enforcement of the current upper age limit for Private Hire vehicles pending implementation of the new Policy.

- 1.4 In order to help mitigate any detrimental impact in relation to public safety that the suspension of the upper age policy may have it is suggested that any vehicle over the age of eight years that is granted a vehicle licence from 21st October 2014 only remains licenced if it adheres to any 'exceptional circumstances' conditions contained within the final Taxi Licensing Policy.

- 1.6 Any Private Hire vehicle with a licence due to expire because it has reached the eight year age limit prior to any resolution being made by this Committee will be treated on the merits of the individual application. This is supported by James Button, who states in his book *Licensing Law and Practice*:

'Whilst it is acceptable that older vehicles can be used successfully as hackney carriages...the purpose of any age limit is to try and ensure that the licensed vehicles are safe, reliable and comfortable as possible. Any age policy would not in itself be arbitrary, because it must be a policy and the local authority must then consider any application that falls outside the age policy on its own individual merits.'

2. Options Considered

Prior to reaching the recommendations listed above, Officers considered whether it would be practical to introduce a 6 month licence fee at a reduced rate for any vehicles over 8 years of age.

The fee payable for the shorter licence would have to be amended as appropriate to reflect the shorter timescale and would be in the region of £220 for a Private Hire Vehicle and £230 for a Hackney Carriage Vehicle.

The Public Protection Committee does not have any delegated authority to set vehicle licence fees and this remains a Cabinet function.

- 2.1 In addition if the Council was to introduce a new fee for a 6 month licence then the Council would need to advertise this for a period of 28 days in at least one local newspaper and invite representations. Should representations be received in relation

to this fee (highly probable as objections were received in relation to the fee for a 12 month licence and this fee will not differ significantly from this and is based upon the same assumptions) then these representations will need to be considered by the Cabinet prior to the fee being implemented.

In any case the earliest the advert could be placed in the paper would be around 27th October 2014 with a deadline for representations of 23rd November. The fees would then be considered by the Cabinet at its meeting on 10th December 2014.

Officers are not in favour of this option as the timescales and legislative steps involve appear impractical in relation to the nature of the issue at hand which requires a more immediate resolution.

3. Proposal

- 3.1 That the Committee consider the recommendations relating to the Council's age policy for Private Hire and Hackney Carriage vehicles as outlined in this report.

4. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

- 4.1 In formulating this report officers have adopted as their overriding concern the safety of the public, as covered by the Council's corporate priority of "Creating a Clean, Safer and Sustainable Borough".

- 4.2 In addition, the proposals set out in this report support the other corporate priorities of the Council, namely:

- Creating a Borough of opportunity;
- Creating a healthy and active community; and
- Becoming a co-operative council which delivers high quality, community-driven services

5. Legal and Statutory Implications

- 5.1 When considering any application for a Private Hire Vehicle Licence, the Council, in accordance with Section 48(a) (i), (iv) and (v) of the Local Government (Miscellaneous Provisions) Act 1976, shall not grant such a licence unless they are satisfied that the vehicle is suitable in type, size and design for use as a Private Hire vehicle, safe and comfortable.

- 5.2 Under Section 47 of the Act the Council may attach to the grant of a Hackney Carriage licence such conditions as it may consider reasonably necessary. The range of conditions is wide and therefore can encompass safety, comfort and design.

- 5.3 The Council may adopt a policy but should be clear that this is a policy and not an immutable rule and each case must be considered on its own merits.

- 5.4 The Local Government (Miscellaneous Provisions) Act 1976, section 48 (4) provides that a Private Hire vehicle licence shall "(c) remain in force for such period not being longer than one year as the district council may specify in the licence". Similar

provisions exist for Hackney Carriages under section 43 Town Police Clauses Act 1847.

- 5.5 A district council may remit the whole or part of any fee chargeable for the grant of a licence under section 48 or 55 of this Act (The Local Government (Miscellaneous Provisions) Act 1976) in any case in which they think it appropriate to do so.

6. Equality Impact Assessment

- 6.1 As already cited, the equalities position is covered by James Button in his book, *Licensing Law and Practice*, where he states that:

‘Whilst it is acceptable that older vehicles can be used successfully as hackney carriages...the purpose of any age limit is to try and ensure that the licensed vehicles are safe, reliable and comfortable as possible. Any age policy would not in itself be arbitrary, because it must be a policy and the local authority must then consider any application that falls outside the age policy on its own individual merits.’

7. Financial and Resource Implications

- 7.1 The full licence fee will be required from all customers when applying for a vehicle licence regardless of the age of the vehicle.

Any vehicles over 8 years of age licenced from 21st October 2014 that fail to meet any ‘exceptional circumstances’ criteria in the final Taxi Licensing Policy by the deadline of 31st March 2015, will be refunded the outstanding amount of the original taxi fee.

It must be noted that any refund will not be equivalent to 50% of the original fee as the majority of the licence fee covers up front administration costs and the Council depot test and these will not be included in any refund. The refund will be calculated taking into account the processes required to produce the licence , it is anticipated that the refund will be in the region of up to 20% of the original fee

Legislation states that a district council may remit the whole or part of any fee chargeable for the grant of a licence under section 48 or 55 of this Act (The Local Government (Miscellaneous Provisions) Act 1976) in any case in which they think it appropriate to do so

- 7.2 It must also be noted that were the Council to introduce the 6 month reduced licence as mentioned in section 2 this could result in a short fall of approximately £6,500 in the Councils expected income.
- 7.3 Unreasonable decisions may lead to awards of costs in the magistrates’ court and prove a drain on valuable Council resources. A clear and reasonable policy also assists in delivering efficiency.

8. Major Risks

- 8.1 Public Safety should not be compromised by a weak Licensing Policy. If public safety is compromised there is a risk of reputational and financial damage to the Council as well as possible harm to members of the public.
- 8.2 Alternatively, any unreasonable refusals for the grant of a licence may also lead to reputational and financial risks to the Council.