

REGULATORY AND GENERAL PURPOSES COMMITTEE**13 JUNE 2024**

REPORT TITLE	HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CRITERIA
REPORT OF	DIRECTOR OF LAW AND CORPORATE SERVICES

REPORT SUMMARY

The purpose of this report is for the Committee to consider the results of a consultation in respect of the current criteria for licensing Hackney Carriage and Private Hire Vehicles and determine any amendments to the current criteria in light of the feedback received from the consultation, having regard to the Statutory Taxi and Private Hire Vehicle Standards and the Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice for Licensing Authorities in England.

This matter affects all Wards within the Borough.

RECOMMENDATIONS

It is recommended that the Regulatory and General Purposes Committee:-

1. Approve the following amendments to the criteria for licensing Hackney Carriage and Private Hire Vehicles contained within the Council's Statement of Hackney Carriage and Private Hire Licensing Policy.

- a) The requirement that Hackney Carriage Vehicles presented for licensing for the first time must be 3 years old or less from the date of manufacture or date of first registration whichever is the earliest be replaced with the following:

A vehicle presented for licensing as a Hackney Carriage Vehicle for the first time with Wirral Council must have been compliant with Euro 5 emission standards at the date of manufacture or date of first registration whichever is the earliest.

- b) The requirement for MOT testing for Hackney Carriage Vehicles be replaced with the following:

A Hackney Carriage Vehicle that is 11 years of age or more from the date of manufacture or the date of first registration, whichever is the

earliest, will be subject to a licence of no more than 6 months and will therefore be required to pass an MOT and Compliance test every 6 months.

c) That the following criteria be removed:

In circumstances when a Hackney Carriage Vehicle proprietor wishes to change a Hackney Carriage Vehicle that is currently licensed to a different vehicle the replacement vehicle must be the same age or less than the vehicle that is currently licensed, up to a maximum of 10 years old. Vehicles that are ten years old or more must be replaced by a vehicle that is no more than ten years old.

d) The requirement that Private Hire Vehicles must be 10 years of age from the date of manufacture or the date of first registration whichever is the earliest be replaced with the following:

A vehicle presented for licensing as a Private Hire Vehicle for the first time with Wirral Council must have been compliant with Euro 6 emission standards at the date of manufacture or date of first registration whichever is the earliest.

e) The requirement for MOT testing for Private Hire Vehicles be replaced with the following:

A Private Hire Vehicle that is 8 years of age or more from the date of manufacture or the date of first registration, whichever is the earliest, will be subject to a licence of no more than 6 months and will therefore be required to pass an MOT and Compliance test every 6 months.

f) The requirement for tinted windows in respect of both Hackney Carriage and Private Hire Vehicles be amended as follows:

The front windscreen must allow at least 75% of light through, the front side windows must allow at least 70% of light through and the windows rear of the B-pillar must allow a minimum light transmission of 30%. No windows or glass fitted to the vehicle may have been subject to an enhanced film / after-market tinting post manufacture. All window glass must meet factory specifications.

g) The requirement in respect of an additional step for Private Hire Vehicles be amended as follows:

A vehicle with a top tread for the entrance which exceeds 38cms from the ground must be fitted with a step to allow easy access into and egress from the vehicle. Any vehicle that does not have a step fitted must carry a portable step to be available for passengers. Both a fitted and portable step must be robust to carry the weight of a passenger and covered with a non-slip surface. The step height must be no more

than 38cms from the ground. The driver of the vehicle must risk assess the use of a portable step on each occasion it is requested by a passenger.

2. That the recommended amendments to the criteria for licensing Hackney Carriage and Private Hire Vehicles have immediate effect.
3. Authorise the Licensing Manager to amend relevant licensing documents in accordance with any amendments made to the criteria for licensing Hackney Carriage and Private Hire Vehicles.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATION/S

- 1.1 The criteria for licensing Hackney Carriage Vehicles and Private Hire Vehicles has not been reviewed since September 2017. Following the publication of the Statutory Taxi and Private Hire Vehicle Standards in July 2020 and recommendations contained within the Standards, on 15 September 2021 this Committee resolved to adopt a single cohesive policy document for the licensing of drivers, vehicles and operators in respect of both Hackney Carriages and Private Hire licensing functions. The effect of adopting one cohesive policy document was to consolidate existing policy, criteria and conditions, it did not introduce any new requirements or amend the criteria for licensing Hackney Carriage or Private Hire Vehicles. Since that time, on 17 November 2023, the Department for Transport (DfT) published a revised Best Practice Guidance for Taxi and Private Hire Licensing in England (DfT Best Practice Guidance). This non-statutory Best Practice Guidance complements the Statutory Standards, covering a range of issues outside the remit of the Statutory Standards and provides more detailed guidance in respect of the licensing of Hackney Carriage and Private Hire Vehicles. It is deemed appropriate, due to the lapse of time since the last review and the most recent publication of the DfT's Best Practice Guidance, for the Licensing Authority to undertake this review. The Statutory Taxi and Private Hire Vehicle Standards are attached at Appendix 1 to this report. The Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice for Licensing Authorities in England is attached at Appendix 2 to this report.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Committee may determine that there should be no change to the current criteria for licensing Hackney Carriage and Private Hire Vehicles. However, having regard to the consultation outcomes, the most recent publication of the DfT Best Practice Guidance, as well as the criteria for licensing vehicles in neighbouring authorities in the City Region, it is considered that should there be no change to the current criteria, proprietors of vehicles will increasingly seek to have their vehicles licensed in other authorities where the criteria does not restrict vehicles in terms of their age or whether their vehicle has been fitted with rear passenger tinted windows.
- 2.2 Officers have considered replacing the current age criteria for licensing Hackney Carriage and Private Hire Vehicles with alternative age criteria, however in respect of this criteria, officers have had particular regard to the DfT Best Practice Guidance which describes setting an arbitrary age limit as "inappropriate and counterproductive".
- 2.3 It was considered appropriate to review the requirement for both Hackney Carriage and Private Hire Vehicles to provide either a fitted step or a portable step when the entrance height to a vehicle exceeds 38cm, however in light of the feedback from the consultation it is considered that there should be no

change to this requirement but that the criteria in respect of Private Hire Vehicles be enhanced to take into consideration the feedback from the consultation.

- 2.4 Removing the requirement for the criteria for licensing Private Hire Vehicles to include a specific measurement of 16 inches for each passenger, where bench seats are fitted, was considered as an option, however the feedback from the consultation indicates that this continues to be a relevant factor to be considered when determining whether a vehicle should be licensed as a Private Hire Vehicle.

3.0 BACKGROUND INFORMATION

- 3.1 The legislation gives licensing authorities a wide range of discretion over the types of vehicles that they can license as Hackney Carriages or Private Hire Vehicles. This is recognised in the DfT Best Practice Guidance which states:

“Individual licensing authorities are still responsible for deciding their own policies and making decisions on individual licensing matters applying the relevant law and any other relevant considerations. This guidance is primarily intended to assist licensing authorities, but it is only guidance and does not intend to give a definitive statement of the law; any decisions made by an authority remain a matter for that authority.”

- 3.2 This discretion applies to the specification of the type of vehicle that may be licensed and the age of vehicles that may be licensed. In respect of Hackney Carriage Vehicles the legislation states that “ a district council may require any Hackney Carriage licensed by them to be of such design or appearance or bear such distinguishing marks as clearly identify it as a Hackney Carriage. In respect of Private Hire Vehicles, the legislation specifically refers to determining whether a vehicle is “suitable in type, size and design for use as a Private Hire Vehicle” and states that the Council must also be satisfied that the vehicle is in a suitable mechanical condition, is safe and comfortable. Due to this wide discretion it is common practice for Licensing Authorities to set out a range of general criteria to allow vehicle proprietors to put forward vehicles for licensing that meet the criteria. The current criteria for licensing Hackney Carriage Vehicles in Wirral is attached at Appendix 3 to this report. The current criteria for licensing Private Hire Vehicles in Wirral is attached at Appendix 4 to this report.
- 3.3 Having regard to the lapse of time since the criteria has been reviewed and the changing landscape in respect of Hackney Carriage and Private Hire working models it was considered necessary and appropriate to consult both the trade and the public on the criteria used by Wirral Council for licensing Hackney Carriage and Private Hire Vehicles.
- 3.4 The consultation took place between 6 November 2023 and 29 February 2024 and the feedback from the consultation is presented in a report attached at Appendix 5 to this report. The approach used for the consultation included an online public consultation through the ‘Have Your Say’ consultation portal with

a page dedicated to the criteria for Private Hire and Hackney Carriage Vehicles. Useful information provided on the site included the licence criteria for Hackney Carriage and Private Hire Vehicles. Licence holders were sent emails providing them with the details on how to take part in the consultation and officers encouraged licence holders attending the office to take part in the consultation. Officers also engaged with entertainment venues in the night-time economy, through the Licensed Premises Network meetings where licensees were directed to the consultation page. The following groups and organisations were also directly encouraged to take part in the consultation through emails or face to face meetings: Mencap, Wired, Wirral Evolutions and Autism Together. Meetings also took place with “Wirral Participation and Engagement” attended by Social Workers who were again encouraged to engage with the consultation and share the information with their clients. A meeting also took place with representatives of Unite the Union representing the Hackney Carriage trade and Wirral Bangladeshi Taxi Drivers Association. Respondents to the consultation were asked to provide comments in support of their answers to the questionnaire, these written comments are attached at Appendix 6 to this report.

3.5 The consultation questionnaire was developed around understanding stakeholder views on the following key areas:

- Vehicle Age Criteria
- The frequency of MOT testing
- Window Tint
- Step Height into a vehicle
- The seat size allowance for each individual passenger on bench seats in Private Hire Vehicles

3.6 Whilst it was open for consultees to comment on any area of the criteria which was provided in a link on the consultation page, it was considered necessary and appropriate to ask direct questions on the key areas listed above as it is these key areas that raise regular questions from vehicle proprietors in respect of the type of vehicles that may be licensed by Wirral and have a particular impact in terms of the decision to purchase a vehicle to be licensed.

3.7 Members of this Committee will be aware that the criteria for licensing Hackney Carriage and Private Hire Vehicles can vary across different licensing authorities, who can apply their own discretion when licensing vehicles. Applying this discretion does allow licensing authorities to apply the standards that they consider to be appropriate to provide a safe and comfortable experience for individuals using licensed vehicles within their local areas.

3.8 In October 2015, the Deregulation Act 2015 made amendments to the Local Government (Miscellaneous Provisions) Act 1976 to allow a Private Hire Operator to sub-contract a booking to another Private Hire Operator irrespective of where they are licensed within the United Kingdom with the exception of Plymouth which has its own legislation. This change brought to

an end the former prohibition on a sub-contract other than between operators licensed by the same authority. This practice is often referred to as “Cross Border Hiring”. The effect of this deregulation is that vehicles with different criteria can operate across many different authorities. Prior to 2022 this amendment to the legislation had only a nominal impact on the operation of licensed vehicles in Wirral, however Licensing Officers are currently receiving a growing concern from individuals licensed by Wirral in respect of the number of vehicles that operate in Wirral but are licensed by other licensing authorities who have different criteria for licensing vehicles. It is reported that individuals are seeking to have their vehicles licensed by other authorities as they are finding it difficult to obtain vehicles that will comply with the current criteria for licensing vehicles with Wirral Council. Should an individual wish to have a vehicle licensed by another licensing authority, in order to be able to drive that vehicle the individual must also obtain a Private Hire Driver Licence from that authority and work for an Operator who has a licence in that authority. The consequences of this are that both drivers and vehicles can operate in Wirral under the conditions and criteria of another licensing authority.

3.9 The key areas referred to in paragraph 3.5 of this report were the focus of the consultation and it is these key areas that this Committee is requested to review in light of the feedback from the consultation, having regard to the Statutory Taxi and Private Hire Vehicle Standards and with reference to the Department for Transport’s Best Practice Guidance for Taxi and Private Hire Licensing in England published on 17 November 2023.

3.10 The Statutory Standards state that “when formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public.” The key areas of the criteria that this Committee are asked to review are set out below with the findings of the consultation and reference to the (DfT) Best Practice Guidance.

3.11 Vehicle Age Criteria - Private Hire Vehicles

The majority of respondents thought that the Council should not maintain the current policy that PHV’s must be no more than 10 years old.

3.12 Vehicle Age Criteria – Hackney Carriage Vehicles

The majority of respondents thought the Council should not maintain the policy of a Hackney Carriage Vehicle having to be no more than 3 years old when granted its first licence. For those who thought there should be an age limit, the most common (40.0%) suggested age was 10 years. Most respondents (50.2%) thought the Council should maintain the policy of Hackney Carriage Vehicles continuing to be licenced with no upper age limit. For those who thought there should be an age limit, the most common suggested ages were 10 and 15 years. More respondents (44.8%) thought the Council should maintain the policy that if owners want to change their Hackney Carriage Vehicle, they must be the same age or less and no more

than 10 years old, than those who thought the Council should not have an upper age limit (33.1%).

3.13 (DfT) Best Practice Guidance

The setting of an arbitrary age limit may be inappropriate, counterproductive and result in higher costs to the trade and ultimately the customer. Licensing authorities should not impose age limits for the licensing of vehicles instead they should consider more targeted requirements to meet their policy objectives on emissions, safety rating and increasing wheelchair accessible provision where this is low.

3.14 Window Tint – Private Hire Vehicles and Hackney Carriage Vehicles

The majority of respondents thought that the Council should not maintain the current policy that in addition to the legal requirement in respect of tinted windows for the front windscreen and front passenger windows all other windows must allow at least 70% of light to get through.

3.15 (DfT) Best Practice Guidance

For most cars on the road today, the minimum light transmission for windscreens is 75% and 70% for front side windows. There are no rules for tinting the windows rear of the B-pillar and vehicles are often manufactured with glass in the rear that is darker than the front, especially in luxury, estate and people carrier style vehicles.

There is a significant cost and inconvenience associated with requiring drivers to replace the standard manufacturer or factory specifications for window glass. Some passengers may feel more comfortable in vehicles that do not have very heavily tinted rear windows but there is a lack of evidence to suggest that these are detrimental to public safety. Balancing these factors, the department considers that licensing authorities should not require the removal of windows rear of the B-pillar if they have a minimum light transmission of 30% or above. This should maintain passenger confidence whilst ensuring a wide range of vehicles may be licensed.

The department recognises that a minimum light transmission of 30% for windows rear of the B-pillar might impact on executive hire vehicles, where passengers demand a higher degree of privacy. Some licensing authorities already grant executive hire vehicles plate exemptions, and they could determine that an exemption from the 30% minimum light transmission level for these vehicles is appropriate. Authorities should be assured that those vehicles are not used for 'normal fares'.

Authorities should carefully consider the views of the public and the trade when considering the acceptance of 'after-market' tinting and should be assured that any after-market window tinting does not negatively affect the safety features of the glass it is applied to.

3.16 Frequency of MOT Testing - Private Hire Vehicles

The majority of respondents (56.3%) thought the Council should not maintain the policy that Private Hire vehicles must have an MOT and Compliance Test every six months if older than 6 years. However, of these respondents, most non-licence holders (70.8%) thought the Council should maintain this requirement.

3.17 Frequency of MOT Testing - Hackney Carriage Vehicles

Most respondents thought the Council should maintain the policy that Hackney Carriage Vehicles must have an MOT and Compliance Test every six months if the vehicle is older than 10 years.

3.18 (DfT) Best Practice Guidance

An annual test for licensed vehicles of whatever age (including vehicles that are less than three years old) seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. More frequent tests may be appropriate for older vehicles which may be more prone to mechanical defects or for vehicles owned by proprietors that persistently present vehicles that do not meet the standards required by the authority.

3.19 Step Height – Private Hire Vehicles

There was a higher number of respondents (49.3%) that considered it a necessary requirement for Private Hire vehicles with an entrance step height exceeding 38cm to have a fitted step or portable step than those respondents who considered it was not necessary (19.4%).

3.20 Step Height – Hackney Carriage Vehicles

The majority of respondents (58.6 %) thought it necessary for Hackney Carriage Vehicles with an entrance step height exceeding 38cm to have a fitted step or portable step.

3.21 (DfT) Best Practice Guidance

Authorities should consider the benefits of requiring additional accessibility equipment to be provided in vehicles beyond that which might be included in a standard vehicle specification, noting that the benefits to disabled customers in terms of their confidence and willingness to travel cannot always be monetised.

3.22 The Seat Size Allowance – Private Hire Vehicles

The majority of respondents (54.0%) thought the Council should maintain the policy that where bench seats are fitted to the rear of a Private Hire Vehicle, the seat must be at least 48” wide.

3.23 (DfT) Best Practice Guidance

There is no reference in the Best Practice Guidance to a recommended measurement for individual passengers when a vehicle is fitted with bench seats.

3.24 In light of the feedback from the consultation it is considered appropriate to maintain this requirement as part of the criteria for licensing Private Hire Vehicles.

3.25 The Statutory Taxi and Private Hire Vehicle Standards states that “any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas.” The table attached at Appendix 7 to this report shows the criteria applied in other authorities in the City Region in respect of the age of vehicles that may be licensed, the frequency of MOT’s in respect of licensed vehicles and the provisions in respect of the type of windows permitted in licensed vehicles.

4.0 FINANCIAL IMPLICATIONS

4.1 Each of the licences referred to in this report attracts a fee payable to the Council. Should there be no change to the criteria for licensing Hackney Carriage and Private Hire Vehicles it is considered that increasing numbers of proprietors will seek to licence their vehicles and themselves with other licensing authorities which will result in a continual reduction in the amount of income received from licence fees.

5.0 LEGAL IMPLICATIONS

5.1 Section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that:

A district council may attach to the grant of a licence of a hackney carriage under the Town Police Clauses Act of 1847 such conditions as the district council may consider reasonably necessary.

(2) Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.

5.2 Section 48 (1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council shall not grant a licence unless it is satisfied that the vehicle is:

- Suitable in type, size and design for use as a Private Hire Vehicle
- Not of such design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage
- In a suitable mechanical condition
- Safe and Comfortable
- That there is in force in relation to the use of the vehicle a policy of insurance

5.3 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient to aggregate to cover in whole or in part –

(a) the reasonable cost of carrying out by or on behalf of the district council of inspections of hackney carriage and private hire vehicles for the purpose of determining whether such licence should be granted or renewed

(b) the reasonable cost of providing hackney carriage stands

(c) any reasonable administrative or other costs in connection with the forgoing and with the control and supervision of hackney carriages and private hire vehicles.

5.4 Section 11 of the Deregulation Act 2015 has amended Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 to allow Private Hire Operators to sub-contract work across different Licensing Authorities.

6.0 RESOURCE IMPLICATONS: ICT, STAFFING AND ASSETS

6.1 The proposed amendments to the criteria for licensing Hackney Carriage and Private Hire Vehicles may have an impact on the level of staffing resources required to process and issue licences as well as the resources necessary to inspect vehicles for compliance with licence criteria and conditions. This is a matter that will be kept under review.

7.0 RISKS

7.1 There is a risk that should the Committee approve the proposed amendments to the criteria for licensing Hackney Carriage and Private Hire Vehicles there will be a lowering of the standard of vehicles that are licensed by the Council, however it is considered that this risk can be mitigated by increasing the level of inspections of vehicles carried out by Licensing Officers. In considering this risk, a relevant factor is that vehicles are being licensed by neighbouring authorities that currently have criteria proposed within the recommendations of this report and are carrying out work in Wirral.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 A Council Have Your Say consultation has been undertaken and the outcome of this consultation is referenced throughout the report.

9.0 EQUALITY IMPLICATIONS

- 9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity. The Equality Impact Assessment relevant to the proposed amendments to the criteria for licensing Hackney Carriage and Private Hire Vehicles is available via the link below.

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The recommendations have taken into consideration the fact that both Hackney Carriage and Private Hire Vehicles may contribute to harmful emissions including particulate matter, hydrocarbons and carbon monoxide which can be harmful to health. The proposal to link the licensing of vehicles to the level of emissions seeks to mitigate the impact of these implications and is in line with the Council's Environment and Climate Emergency Policy Statement.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 The proposed amendments to the criteria for the licensing of Hackney Carriage and Private Hire Vehicles seeks to enhance the provision of vehicles licensed by Wirral Council in order that they can better serve the local economy and improve accessibility across Wirral.

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APPENDICES

- Appendix 1 - The Statutory Taxi and Private Hire Vehicle Standards
Appendix 2 - The Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice for Licensing Authorities in England
Appendix 3 - The Criteria for licensing Hackney Carriage Vehicles

- Appendix 4 - The Criteria for licensing Private Hire Vehicles
- Appendix 5 - Private Hire and Hackney Carriage Vehicles Consultation Report
- Appendix 6 - Private Hire and Hackney Carriage Vehicles Consultation – Comments
- Appendix 7 - Private Hire and Hackney Carriage Vehicle Licence Criteria in neighbouring Authorities across the City Region

BACKGROUND PAPERS

The Council’s Environment and Climate Emergency Policy Statement.
 The Town Police Clauses Act 1847
 The Local Government (Miscellaneous Provisions) Act 1976
 The Equality Act 2010
 The Deregulation Act 2015

TERMS OF REFERENCE

This report is being considered by the Regulatory and General Purposes Committee who are delegated to determine such matters in accordance with Section 8.2 of the Regulatory and General Purposes Committee’s Terms of Reference set out in the constitution.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Regulatory and General Purposes Committee	15 September 2021