

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**21 NOVEMBER 2018**

**ALL WARDS**

**PROPOSALS FOR A MEDIUM TO LONG-TERM  
EMISSION STANDARD AND AGE POLICY  
FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

1 Summary

- 1.1 In October 2017 your Committee approved an emissions policy for hackney carriage and private hire vehicles that is consistent with the introduction in 2020 of a Clean Air Zone. It requires all licensed vehicles to meet the minimum emission standards of Euro 4 for petrol engines and Euro 6 for diesel engines.
- 1.2 In order to achieve compliance, drivers of vehicles that do not meet the standard must change their vehicle or install an approved retrofit device (where suitable devices exist). Whilst there is a wide choice of compliant vehicles available to private hire drivers, the availability of compliant hackney carriage vehicles is far more restricted.
- 1.3 This report considers the medium to long-term emission standards and age policies for licensed vehicles. It sets out suggestions to deal with hackney carriage vehicles in particular and proposes that officers should consult on the suggested recommendations contained in this report.

2. Recommendations

- 2.1 That subject to the views and comments of the Committee a consultation is launched with the taxi and private hire trade and the general public to consider the principles for future licensing policy outlined in paragraph 6 of this report.
- 2.2 That the consultation will commence on 21 November 2018 and last for 8 weeks.
- 2.3 That a further report be brought to this Committee on 13 February 2019 containing the final version of the policy.
- 2.4 That outstanding minutes 916(iii) and 916(iv) of 23 October 2017 be discharged.

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### 3. Background

- 3.1 In December 2015 the Government announced that Birmingham would be one of six cities that would be required to put in place a Clean Air Zone in order to improve air quality. Those cities were London, Birmingham, Leeds, Nottingham, Derby and Southampton. That decision was reported to your Committee on 17<sup>th</sup> February 2016.
- 3.2 On 15<sup>th</sup> February 2017 the Licensing & Public Protection Committee agreed to consult on a draft vehicle emissions policy in the context of the Government's decision that Birmingham had to adopt a Clean Air Zone (CAZ) as one of a series of measures to improve air quality in the city due to the impact that pollution is having on the health of the population.
- 3.3 The consultation took place over 14 weeks between 1 March 2017 and 9 June 2017. The consultation was hosted on the Council's BeHeard website and was promoted through meetings with taxi and private hire trade representatives, social media and Birmingham City Council's principal website. Individual post cards were sent to every licensed hackney carriage and private hire driver or owner and every private hire operator to alert them to the consultation. The responses to the consultation were taken into account when this committee agreed its emissions policy on 23 October 2017.
- 3.4 On 26 July 2017, upon the direction of the Supreme Court, the Government published DEFRA's UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations (The UK Plan). Under that plan each city must adopt its own measures to improve air quality and final plans have to be produced by December 2018. The Supreme Court ruled that the UK government must reach legal compliance with EU air quality standards 'in the shortest possible time.'
- 3.5 In September 2017 Birmingham's Health & Social Care Overview & Scrutiny Committee published its report 'The Impact of Poor Air Quality on Health'. It identified the link between pollution and poor health and said that 'The City Council needs to demonstrate leadership and take ownership of this issue by developing a strategy to address this effectively.'
- 3.6 **Legislative Background.** The EU Air Quality Directive 2008/50/EC sets out the national targets on emission of pollutants, including nitrogen dioxide (NO<sub>2</sub>). The directive and target emission levels are set out and implemented in England under the Air Quality Standards Regulations 2010 and 2016. Under S.82 Environment Act 1985 the Council is required to review air quality within its area and to designate Air Quality Management Areas (AQMA) where air quality objectives set out under the Air Quality (England) Regulations 2000

and 2002 are not achieved and to prepare an action plan detailing remedial measures to tackle the problem.

3.7 Birmingham is currently non-compliant in a number of areas of the city centre. The pressing urgency is that the Government issued the UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations in July 2017 which identified Birmingham as one of the areas experiencing the greatest problem with NO<sub>2</sub> exceedances. Birmingham has responded to the Government's UK Plan by announcing the introduction of a Clean Air Zone (CAZ) with effect from 2020.

3.8 **Health & Social Care Overview and Scrutiny Report.** On 12<sup>th</sup> September 2017 Birmingham's Health & Social Care Overview and Scrutiny Committee published its report 'The Impact of Poor Air Quality on Health'. It identified that in Birmingham up to 900 deaths per year are linked to man-made air pollution. In adults air pollution is linked to heart disease, diabetes, asthma, obesity, cancer and dementia. In children it is linked to still births, infant deaths, low birth weight, organ damage and premature death. In high pollution areas children are four times more likely to have reduced lung function when they become adults. Taxi and private hire drivers are three times more exposed to pollution than anyone else. The report's first recommendation says:

*There is now clear and compelling evidence that poor air quality has an impact on general population health and child development. The evidence also shows that diesel vehicle emissions are the most prevalent and impactful source of health-affecting air pollution in Birmingham. The City Council needs to demonstrate leadership and take ownership of this issue by developing a strategy to address this effectively, with particular emphasis on selected priority hotspot zones where the risk of public exposure is highest.*

3.9 The most harmful types of pollution are nitrogen oxides and particulates (PM<sub>2.5</sub> and PM<sub>10</sub>). Both pollutants are mainly created by road transport. The largest source is emissions from diesel cars and vans. Just fewer than 40% of cars in the UK now use diesel fuel.

3.10. The conclusion of the Scrutiny Report is copied below:

*The impact of poor air quality on health and the need to take action urgently to tackle the problem is becoming increasingly clear. The evidence demonstrates that poor air quality is a major public health issue. In Birmingham, Public Health estimate that poor air quality causes approximately 900 premature deaths a year. It is rapidly becoming clear that exposure to air pollution is associated with a much greater public health risk than had previously been understood and evidence about associated adverse health effects is emerging all the time.*

*There is also growing recognition that air quality is a major cross-cutting issue. It has a wide impact and any effective response to the issue will require a joined-up approach across a number of Council areas of responsibility. It will also necessitate joint working*

*together with communities, businesses and other partners across the city and across the wider West Midlands region with the West Midlands Combined Authority and the West Midlands Mayor.*

*Birmingham needs to respond to the challenge of improving air quality and achieving compliance with air quality limits as soon as possible. But local action alone will not be sufficient to produce a successful solution to reducing emissions. Responding to the problem successfully, achieving compliance and bringing about the scale of behaviour change needed will require a very clear and consistent message to be communicated about the health implications of poor air quality. The City Council needs to continue to collaborate with the West Midlands Mayor to build on the vision set out in the Birmingham Connected Transport Strategy and to take a lead to get clarity and commitment about the measures needed to both support sustainable and inclusive growth and to achieve compliance with air quality limits across the region.*

3.11 The report evidenced the need for all parts of the Council to take action to improve air quality. The Licensing and Public Protection Committee can play a key role in supporting the Council’s aims through its hackney carriage and private hire vehicle licensing policies.

4. Effects of the Emissions Policy on Birmingham’s Licensed Hackney Carriage and Private Hire Vehicles

4.1 Based on the figures produced for the emissions report in October 2017 the application of this policy will affect the following number of vehicles that Birmingham licenses: 24% of **private hire vehicles** currently licensed will comply with the Euro 4 petrol or Euro 6 diesel standard applicable to the relevant vehicles and 76% will not comply. Only 6% of **hackney carriages** comply with the Euro 6 standard (which includes the 65 vehicles converted to LPG).

4.2 The total numbers of vehicles that would have not met the standard in October 2017 and which will need to be replaced or be retrofitted are:

Private Hire Vehicles: 3,351

Hackney Carriages: 1,193

4.3 Private Hire - Breakdown of Compliant / Non-Compliant Vehicles

Private Hire Vehicles	Number	Percentage
Non-Compliant	355	8%
Private Hire Petrol or non-diesel Vehicles Euro 3 or below		
Non-Compliant	2996	69%

Private Hire Diesel vehicles Euro 5 or below		
Compliant	818	19%
Private Hire Petrol Vehicles Euro 4 or above		
Compliant	152	3.5%
Private Hire Diesel Vehicles Euro 6		
Totals	4,321	100%

#### 4.4. Hackney Carriage - Breakdown of Compliant / Non-Compliant Vehicles

Hackney Carriage	Number	Percentage
Non-Compliant	1193	94%
Hackney Carriages Euro 5 or below		
Compliant	7	1%
Hackney Carriages Euro 6		
Compliant	65	5%
Hackney Carriages converted to LPG		
Totals	1265	100%

4.5 Although only 23% of private hire vehicles were compliant with the Euro 4 and Euro 6 emission standards at the time the policy was introduced, the availability of vehicles that are suitable for use as private hire vehicles is much wider than it is for hackney carriage vehicles. Based on the 2017 figures, only 6% of hackney carriages (or 72 vehicles) were compliant. Whereas a private hire driver can replace a non-compliant vehicle with a petrol engine vehicle that could be up to 8 years old, a hackney carriage driver would need to buy a fairly new Euro 6 diesel model (made since 2015) with prices around the £35,000 level, or a new electric vehicle, which would cost at least £55,000.

4.6 The financial burden on hackney carriage drivers to replace their vehicles is greater than that on private hire drivers. In addition, hackney carriages are the only vehicles that are required to be wheelchair accessible. If very large numbers of hackney carriages were to disappear after 31 December 2019 it could have a particularly adverse impact on people with disabilities.

5. Mitigation for Drivers Affected by the Emissions Policy

5.1 The following mitigation has already been put in place to support drivers whose vehicles do not meet the new emission standards.

Policy	Comments
LPG Retrofit Scheme	65 Hackney Carriage vehicles have been fitted with LPG conversions to make them compliant with the emissions standard. The cost was funded by the Department for Transport as a national pilot. The effectiveness of the project has now been assessed and approved by the CVRAS as a recognised retrofit solution for hackney carriage TX models. Earlier this year the Department of Transport set up a Clean Vehicle Retrofit Accreditation Scheme (CVRAS) to provide independent evidence that a vehicle retrofit technology will deliver the expected pollutant emissions reductions and air quality benefits. Only approved conversions under the CVRAS scheme will be recognised in a CAZ.
LPG Retrofit scheme	The Licensing and Public Protection Committee resolved in October 2017 to allow hackney carriages that have been retrofitted with the LPG conversion to remain licensed until 31 December 2025 irrespective of their age.
Engine size of vehicles	In September 2018 The Licensing and Public Protection Committee approved the removal of the policy requirement for private hire vehicles to have a minimum engine size, enabling vehicles with smaller engines to be licensed, including electrically powered vehicles, thus widening the pool of vehicles available to drivers.
Hackney carriage drivers can have a joint hackney carriage and private hire drivers' badge to enable drivers	Approved by the Licensing and Public Protection Committee in October 2018. Attached as Appendix 1 to this

who would like to transfer from hackney carriage to private hire to do so more easily	report is a flow diagram to explain how the opportunity to acquire a dual badge operates in relation to hackney carriage drivers depending on when their licences expire.
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5.2 The following mitigation is under consideration specifically for hackney carriage vehicles and owners.

Policy	Comments
<p>Birmingham City Council is bidding to the Government's Clean Air Fund to pay for a package of measures to assist hackney carriage drivers:</p> <p>We are asking for funds to enable BCC to buy 50 new ULEV hackney carriages. 10 of the 50 would be offered on short leases to drivers as a try before you buy scheme to help drivers to make a purchasing decision. 40 of the 50 would be for short term rental, on possibly hourly rates, and could be targeted at older drivers nearing retirement to address the fact that they are less likely to be in a position to be able to purchase new vehicles.</p> <p>We have asked for a package of £5000 each for up to 1000 owners to offset the costs of running a ULEV hackney carriage vehicle and would be paid over a 4-year period. Alternatively, drivers could use the £5000 to pay towards the cost of installing CVRAS approved retrofit technology (with an extension to our age policy as described below).</p>	<p>Deadline for bid submission is 11<sup>th</sup> December 2018</p>

6. Proposals for consultation to address medium to long-term emissions and age policy

6.1 The maximum permissible age of vehicles is closely related to, and cannot be ignored when considering, emissions policies. In general, the older a vehicle is, the more likely it is to produce higher levels of NOx emissions. Improved

levels of emissions have come about through advances in technology over time.

- 6.2 Under our current age policy for vehicles we will not grant a new licence to a private hire vehicle that is more than 8 years old or to a hackney carriage vehicle that is more than 14 years old. A vehicle may continue to be licensed thereafter if it passes the 'exceptional condition' test, which is supplementary to the MOT test. This means that a vehicle can continue to operate for many years after our notional age limit has passed.
- 6.3 We propose to consult with the trade on the following principles:
- (i) We will continue to use our current age policy of 14 years for hackney carriages and 8 years for private hire vehicles from 1 January 2020 as the basis for licensing policy.
  - (ii) We will discontinue the exceptional condition test. This will require all vehicles to be replaced when they reach the relevant age limit (subject to the exemption for certain hackney carriages detailed below) and will help to future-proof the fleet of licensed vehicles in relation to compliance with more stringent emission standards.
  - (iii) The committee has already agreed to extend the life of hackney carriages that have been converted to LPG through the government's pilot scheme until December 2025. We would propose to offer the same extension to other hackney carriages that are retrofitted with an approved CVRAS solution (subject to a restriction on the age of the vehicle (see paragraph (vi) below)). This would apply regardless of whether the conversion was paid for through a government grant or privately by the vehicle owner. This proposal will help to ensure that there will be adequate numbers of hackney carriage vehicles in Birmingham after 1 January 2020 as we transition towards an electric fleet.
  - (iv) The only approved retrofit solution at the time of writing is the LPG conversion. It is only available for the TX model of hackney carriage (the traditional London taxi shape).
  - (v) It is hoped that between now and the end of 2019 the CVRAS will give approval to other retrofit devices for hackney carriage vehicles.
  - (vi) We will limit approval to convert hackney carriage vehicles with CVRAS approved technology to those that are under 14 years old at 1<sup>st</sup> January 2020 irrespective of whether the cost is paid for through subsidy or whether the vehicle owner pays for the conversion.
  - (vii) The effect of paragraph (vi) above will limit the pool of potential vehicles to the TX4 model of London taxi cab due to the fact that earlier models will not meet the 14 years age policy, based on the only CVRAS approved technology at the time of writing.

- (viii) This proposal will ensure that only the newest and therefore higher quality vehicles with better structural integrity than the older TX1 and TX2 models will be eligible.
- (ix) If other CVRAS retrofit devices are approved for hackney carriages or for other models of hackney carriages (such as Mercedes/Citroen/Peugeot van conversions) we will apply the same 14 year-age policy and 2025 extension to their age limit, but will prioritise the newest vehicles if the conversions are funded through government subsidy.
- (x) We cannot guarantee the lifespan for a Euro 4 or Euro 6 compliant vehicle in light of the potential for the government to announce higher emission standards, but in the absence of any national alterations to emission standards our proposed 8 and 14 year age policy would apply, subject to the introduction of the proposed 2026 ULEV standard (see paragraph xiii below).
- (xi) Any attempts by drivers to carry out their own conversions (such as by putting petrol engines into diesel vehicles) can only be done with the specific approval of Licensing and they will still be subject to the age rules.
- (xii) In relation to the new electric TX hackney carriage vehicle we will consider extending the period for which we will license it, depending on advice from the manufacturer about the expected lifespan for the vehicle. This will help drivers to make a decision to purchase the vehicle and allow a longer period of time to recover the cost of the investment if such a policy is agreed.
- (xiii) That from 1 January 2026 all licensed vehicles (hackney carriage and private hire) must be Ultra Low Emission or Zero Emission Capable Vehicles. An Ultra-Low Emission Vehicle is defined by the Office for Low Emission Vehicles as emitting less than 50g CO<sub>2</sub>/km and able to travel at least 70 miles without any emissions at all.
- (xiv) From 2030 we will only grant new licences to fully electric vehicles.

## 7. Wheelchair Accessible Vehicles

- 7.1 Currently only side loading hackney carriages can be licensed for wheelchair access in Birmingham. By permitting rear loading hackney carriages we would open up a wider pool of less expensive vehicles to hackney carriage drivers, such as the Peugeot van conversion, for instance. However, there are arguments for and against. We also have the opportunity to approve wheelchair accessible private hire vehicles. This is a significant area of licensing policy in its own right and therefore will be considered in a separate report that will be brought to this Committee.

8. Comparison with London's Emissions Policy for Private Hire and Hackney Carriage Vehicles

8.1 In London the emissions standards for private hire vehicles are regulated by Transport for London via statutory instrument under the Greater London Authority Act 1999 and the Private Hire Vehicles (London) Act 1998. The Private Hire Vehicles (London PHV Licences) (Amendment) Regulations 2015 came into force on 1<sup>st</sup> November 2015 and set out the minimum vehicle emission standards for private hire vehicles. There is an absolute age policy of 10 years for private hire vehicles in London. A vehicle must be no older than 5 years to be licensed for the first time and it must be at least Euro 4.

Date	Standard
1 <sup>st</sup> January 2018 to 31 <sup>st</sup> December 2019	All PHV vehicles granted a licence for the first time must be Euro 6 (whether petrol or diesel) or a petrol hybrid that is a minimum of Euro 4.
1 <sup>st</sup> January 2020 to 31 <sup>st</sup> December 2022	All new (less than 18 months old) PHVs licensed for the first time will have to be zero emission capable.  PHVs over 18 months old will need to have a Euro 6 engine when licensed for the first time.
From 1 <sup>st</sup> January 2023	All PHVs (of any age) will need to be zero emission capable when licensed for the first time.
From September 7 <sup>th</sup> 2020 all PHVs that do not meet Euro 4 petrol or Euro 6 diesel emissions standards will be subject to £12.50 per day charge to enter the Ultra Low Emissions Zone (ULEZ).	

8.2 The policy in London for hackney carriage vehicles is that from 1<sup>st</sup> January 2018 taxis presented for the first time will need to be Zero Emission Capable (ZEC). A first-time taxi vehicle licence will no longer be granted to a diesel taxi. ZEC taxis with petrol engines will need to meet the latest emissions standard (currently Euro 6). There is a maximum age limit for taxis of 15 years which will remain in place and taxis will be exempt from paying the charge to enter the Ultra-Low Emissions Zone. Taxis converted to LPG with approved TfL technology can be licensed for an additional 5 years. TfL has a target to license 9,000 ZEC taxis by 2020.

## 9. Consultation

- 9.1 Extensive consultation was conducted during 2017 lasting 14 weeks which produced 775 responses. The responses were considered and reflected in the policy that was agreed in October 2017.
- 9.2 During the summer of 2018 the Council engaged in widespread consultation with the general public on the impact of the Clean Air Zone. This included five 2-hour meetings specifically for taxi and private hire drivers and operators between 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> August 2018. The proposals in this report have been influenced by the feedback from those who attended the CAZ consultation events.
- 9.3 The proposals from this report before your Committee today will be consulted with the general public and the taxi and private hire trade using the Council's BeHeard consultation portal, by social media and by direct communication with our licensed drivers, owners and operators and our trade representatives.

## 10. Implications for Resources

- 10.1 The cost of licensing vehicles with lower emissions will be the same as the cost of licensing vehicles with higher levels of emissions. However, there is a risk to overall licensing income if the effect of the policies recommended in this report encourages drivers and vehicle owners to seek licences from other authorities that do not have vehicle emissions standards.
- 10.2 The number of drivers licensed in one authority and working in another has become more prevalent since the Local Government (Miscellaneous Provisions) Act 1976 was amended by the Deregulation Act 2015 in respect of Sub Contracting by operators. In Birmingham we see large numbers of drivers and vehicles working here who are licensed by other authorities. The Chair of your Committee has lobbied the relevant ministers and MPs to try to change the legislation to restrict the ability of drivers to do this. When Birmingham introduces a fee paying charging Clean Air Zone, drivers licensed by other authorities using vehicles that do not meet Clean Air Zone standards would be required to pay to enter the zone irrespective of where they are licensed and this may remove any incentive to seek a licence elsewhere.

## 11. Implications for Policy Priorities

- 11.1 The Council's Vision and Priorities 2017-2020 document identifies four priorities for Birmingham namely: Children, Housing, Jobs and Skills, and Health. The recommendations in this report support the Council's main priorities at the highest level, in particular those for Health, Children, and Jobs and Skills. These include 'Creating a healthier environment for Birmingham', creating 'an environment where our children have the best start in life', and developing 'a modern sustainable transport system that promotes and prioritises sustainable journeys'.

## 12. Public Sector Equality Duty

12.1 Under the Duty we must have regard to the need to:

- Eliminate unlawful discrimination, harassment, and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not.

12.2 We recognise that there will be financial consequences for large numbers of drivers and vehicle owners if they are required to replace their vehicles or to retrofit engines to achieve compliance with emission standards, however, these consequences arise because of the fact that they are licensed drivers and owners and are not attributable to a protected characteristic.

12.3 We have identified in paragraph 5 mitigation measures aimed at reducing the impact of these policies on drivers and by enabling a limited number of currently licensed hackney carriages to continue to work between 2020 and 2025 we will be protecting the rights of people with disabilities, and especially those who use wheelchairs.

12.4 An Equality Analysis will be completed to accompany the final proposals when they are put before this committee in February 2019 to assist the Committee to make its decision.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**