

BIRMINGHAM CITY COUNCIL

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

13 MARCH 2019

ALL WARDS

**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 complaint hackney carriage vehicles is far more restricted.
- 1.3 In November 2018 your Committee approved a consultation to consider proposals for a medium to long-term vehicle emissions and age policy that set standards for vehicles from 2020 up to 2030. This report invites the Committee to agree the final version of the policy, which has been significantly amended to take account of the results of the public consultation.

2. Recommendations

- 2.1 That the recommended policies in Appendix 1 '**Hackney Carriage Vehicle Age, MOT and Retrofit Requirements**' from paragraphs 1 to 12 be approved.
- 2.2 That the recommended policies in Appendix 2 '**Private Hire Vehicle Age, MOT and Retrofit Requirements**' from paragraphs 1 to 12 be approved.

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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 17th February 2016.
- 3.2 On 15th 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 had to have been 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 **Legislative Background.** The EU Air Quality Directive 2008/50/EC sets out the national targets on emission of pollutants, including nitrogen dioxide (NO₂). 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.
- 3.6 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 NO₂ exceedances. Birmingham has responded to the Government's UK Plan by announcing the introduction of a Clean Air Zone (CAZ) with effect from 1st January 2020.
- 3.7 **Health & Social Care Overview and Scrutiny Report.** On 12th 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.

3.8 The most harmful types of pollution are nitrogen oxides and particulates (PM2.5 and PM10). 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.

3.9 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.

3.10 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. Vehicles Affected by the Emissions and Age Policy

4.1 The number of hackney carriage and private hire vehicles licensed by Birmingham by reference to their age as at 25th January 2019 is summarised in the table below.

Hackney Carriage Vehicles		Private Hire Vehicles		Totals
Age	Number	Age	Number	
Up to 5 years	49	Up to 5 years	562	611
5 to 10 years	103	5 to 10 years	1,676	1,779
10 to 15 years	443	10 to 15 years	1,741	2,184
Over 15 years	523	Over 15 years	166	689
Total	1,118	Total	4,145	5,263

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 CAZ 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. In 2018 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 emissions reductions and air quality benefits. Only approved conversions under the CVRAS scheme will be recognised as CAZ compliant.
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.
Dual hackney carriage and private hire drivers' badge	Approved by the Licensing and Public Protection Committee in October 2018. Hackney carriage drivers can have a joint hackney carriage and private hire drivers' badge to enable drivers who would like to transfer from hackney carriage to private hire to do so more easily.

- 5.2 The Council has applied to the Government's Clean Air Zone for a package of measures to help businesses that are affected by the CAZ. Our application included the following measures specifically for hackney carriage and private hire owners.

Measure	Comments
<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</p>	<p>We are waiting to hear whether our bid has been successful. The bid was submitted on 13th February 2019.</p>

<p>extension to our age policy as described below).</p> <p>For private hire drivers either £2,500 towards the running costs of a ULEV that is eligible for the Government's plug in car grant, or</p> <p>£2,000 towards the purchase price or lease of a hybrid electric vehicle (HEV) or ULEV that is not eligible for the plug in car grant, or</p> <p>£1,000 towards the purchase or lease of a petrol or diesel CAZ compliant vehicle.</p>	
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6. Proposed medium to long-term emissions and age policy for hackney carriage and private hire vehicles

6.1 Appendix 1 is a table that sets out our current vehicle age and emissions policies for hackney carriages, the proposals upon which we have consulted and the policies that are recommended for approval. Appendix 2 is the same, but for private hire vehicles. The tables allow committee members to see the degree to which the proposals have moved as a consequence of officers taking account of the responses to the consultation. Although the new recommendations are less onerous for drivers in the short term, they are predicted to achieve a higher uptake of ULEV vehicles in the long term. The entire fleet of hackney carriages is forecast to be ULEV 5 years earlier in 2035 compared to the original proposals and the entire private hire fleet is forecast to be ULEV 3 years earlier in 2033 compared to the original proposals.

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 1st 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 st January 2018 to 31 st 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 st January 2020 to 31 st 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 st January 2023	All PHVs (of any age) will need to be zero emission capable when licensed for the first time.
From September 7 th 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 1st 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 7th, 8th and 9th August 2018.

- 9.3 The draft policy that your committee approved on 21 November 2018 was put out to public consultation through the Council's BeHeard consultation portal, and through social media. Every licensed driver, vehicle owner and operator received a letter advising them of the consultation. Meetings were held with the trade representatives specifically to discuss these proposals on 5 December 2018, attended by the Chair of your committee, and 5 February 2019.
- 9.4 The public consultation received 1,379 responses, with a further 11 received by post or email. The responses have been analysed on behalf of Licensing by Element Energy Ltd, a strategic energy consultancy that has been engaged by Birmingham City Council to support the introduction of the CAZ. An analysis of the responses is at Appendix 3. The recommendations in this report have been influenced by the responses to the consultation.
- 9.5 Upon the committee's consideration of this report and its decision, officers will send a clear and comprehensive information pack to all drivers and operators to explain the policy and its consequences for them.

10. Implications for Resources

- 10.1 The cost of licensing vehicles is the same whatever their age or emissions. However, there is a risk to overall licensing income if the effect of the policies recommended in this report result in drivers and vehicle owners seeking licences from other authorities with lower standards or retiring from the trade completely.
- 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 an increased 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 On 1 March 2019 the Independent Workers Union of Great Britain (IWGB) started legal action against the Mayor of London, Sadiq Khan, claiming that the intention to make private hire drivers pay the £11.50 London congestion charge, but to make hackney carriages exempt, is a form of indirect discrimination because the majority of private hire drivers in London are BAME (Black, Asian and Minority Ethnic) and the majority of hackney carriage drivers are white.

12.5 In the policy recommended to your committee we have tried wherever possible to treat the private hire and hackney carriage trades equally and have proposed that any exemptions or allowances for one are made available to the other. The different age limits proposed for private hire vehicles compared to hackney carriages recognises that private hire vehicles are not constructed with the intention that they will be used as intensively as a hackney carriage and the cost of a ULEV hackney carriage is much higher than a ULEV private hire vehicle. There is no significant imbalance in the demographic make-up of the two trades, with private hire and hackney carriage drivers both being predominantly from BAME backgrounds.

12.6 An Equality Analysis has concluded that this policy will not result in an adverse impact based on categories of protected characteristics.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Spreadsheet of all responses to the BeHeard consultation.

Responses to the consultation sent directly to the Acting Director.