



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Review by the Overview and Scrutiny Committee of the Petition Received from the Hackney Carriage and Private Hire Trade”	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team	X
	Scrutiny Committee – Environment & Health & Wellbeing	



Is this an Executive Decision:	NO	Is this a Key Decision:	NO
Is this in the Forward Plan:	NO	Is the Report Confidential: If so, please state relevant paragraph from Schedule 12A LGA 1972:	NO []

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Interim Monitoring Officer: **John Teasdale**

Date Signature

Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Environment and Health Scrutiny Committee

Date:

REPORT TITLE: Review by the Overview and Scrutiny Committee of the Petition Received from the Hackney Carriage and Private Hire Trade”

PORTFOLIO: Enforcement Services

HEAD OF SERVICE: Mark Rizk

CONTACT OFFICER: Margaret Woolley Ext. No. x1[1479]

WARD(S) AFFECTED: All

1. Purpose of the Report

- 1.1. This report has been brought as a consequence of correspondence received from Mr Asif Hussain seeking a Review of the outcome of the Council’s consideration of his Petition.
- 1.2. Mr Hussain is dissatisfied with the decision of the Licensing Committee on 15th December 2021 in respect of the “Hackney Carriage and Private Hire Euro Emissions Policy” review following a Petition received by the Authority dated 15th November 2021 The Petition was subsequently referred to Full Council on 28th February 2022.

2. Executive Summary

- 2.1. The Authority received a Petition dated 15th November 2021 titled “Hackney Carriage and Private Hire Policy Review of Vehicle Requirements – Full Council 24 Feb 2020.”
- 2.2. In accordance with the Petitions Scheme contained within the Council’s Constitution, the Petition was presented to the Licensing Committee, who have the power to take a decision on the Petition.

- 2.3. The Licensing Committee considered the Petition at a Licensing Committee meeting on 15th December 2021.
- 2.4. Recommendations to the Licensing Committee were:
 - 2.5. (a) Age limits on vehicles take precedence over the Emissions date
 - 2.6. (b) That the Emission date replace and take precedence over the age of vehicles
 - 2.7. (c) The Emissions date be moved to either April 2023, April 2024 or April 2025
 - 2.8. (d) Emission date remains unchanged as 1st April 2022.
- 2.9. The Licensing Committee voted for recommendation a) Age limits on vehicles take precedence over the Emissions date.
- 2.10. The decision of the Licensing Committee was subsequently referred to Full Council on 28th February 2022, with the following recommendations:
- 2.11. That Full Council endorse the recommendations of the Licensing Committee to approve that age limits of Hackney Carriage and Private Hire Vehicles take precedence over the Emissions date of 1st April 2022 and amends the Hackney Carriage and Private Hire Policy 2019-2022 accordingly.
- 2.12. However an amendment was proposed by Councillor B G Peters and seconded by Cllr M Metcalf:

The amendment read as follows:

“That this Council extend the introduction of the Emissions date from 1st April 2022 to 1st October 2022 and amends the hackney carriage and private hire policy 2019-2022 accordingly”.

The amendment was carried.

3. Background

- 3.1. The Authority received a Petition which was required to be dealt with under the Councils Petition Scheme.
- 3.2. It was within the Licensing Committees Power to take a decision on the Petition.
- 3.3. The Petition was based on the introduction of the Hackney Carriage and Private Hire policy requirement, for all vehicles to be Euro 4 and Euro 6 compliant by 1st April 2022. The Policy, was first introduced in a review of the Hackney Carriage and Private Hire Policy by Full Council in February 2020.

4. Contribution to Corporate Priorities

- 4.1. Environment, Health and Wellbeing.

5. **Report**

- 5.1. The Licensing Team received several requests over recent months asking that the Council consider a review of the Emissions Policy contained within the Hackney Carriage and Private Hire Policy.
- 5.2. The Hackney Carriage and Private Hire Policy 2019 – 2022 was approved by full Council on 3 December 2018 and states:
 - a) Paragraph 19; “Any application for the grant or renewal of a hackney carriage or private hire vehicle licence shall not be granted unless the vehicle complies with the current Euro technology. As from 1st April 2022, all licensed hackney carriage vehicles and all private hire vehicles must be fitted with at least a Euro 4 compliant engine for vehicles fitted with a petrol engine, or at least a Euro 6 complaint engine for vehicles fitted with a diesel engine”.
 - b) Paragraph 13; Grant and Renewal of Vehicle Licences “The Licensing Authority will, providing all requirements are met, issue a 12 month vehicle licence for vehicles under 7 years old for a private hire vehicle and non-wheelchair accessible hackney carriages and 10 years old for a purpose built hackney carriage and providing it has passed a Council compliance test at an appointed station”.
- 5.3. A Petition dated 15th November 2021 was received by the Authority.
- 5.4. A meeting of the Licensing Committee was called for the 15th December 2021, in order that the Petition could be considered.
- 5.5. At the Licensing Committee meeting, 20 representatives of the Taxi Trade were in attendance at the meeting in the Town Hall. A member of the Trade represented the delegation and presented the content and reason for the Petition, on behalf of those that contributed.
- 5.6. There was also a delegation of approximately 100 members of the taxi trade outside the Town Hall with placards and they demonstrated in support of the Petition.
- 5.7. The Licensing Committees have the power to consider Petitions and any actions to be taken.
- 5.8. The Petition received had 129 signatures.
- 5.9. The Petition asked for the following: “Our concerns are we would like an immediate review of the 1st April 2022 Euro 4 and Euro 6 compliancy requirement”.
- 5.10. The reason and need for the policy review were set out in the petition document and are as stated below:

- a) It breaches an existing agreement and it is also discriminatory;
- b) There is no national requirement for taxis to confirm to such policy and the policy is in disharmony with the policy of neighbouring councils;
- c) The wider and negative impact of the policy such as costs on drivers, do outweigh any alleged benefits;

5.11. The Petition went onto say “We have already provided evidence to back up our claim to reinstate our right to drive Euro 5 engine vehicles”.

5.12. Licensing Authorities are being urged by central government to exercise discretion in dealings with the licensed taxi trade. Guidance states that:

“Licensing Authorities should consider ways in which they can use their existing powers to support the trade to continue to operate and provide essential travel”.

5.13 A benchmarking exercise in respect of Emissions was undertaken and attached to the Licensing Committee report of 17th November 2021:

Authority	Policy Implementation Date			
Coventry	Date From	Renewal of Current Vehicles	Replacement Vehicles to replace other vehicles	New Vehicle Applications
	1 January 2020	Euro 4 and above	Euro 4 and Above	Zero Emission or Zero Emission Capable
	1 January 2022	Euro 5 and above	Euro 5 and Above	Zero Emission or Zero Emission Capable
	1 January 2024	Zero Emission or Zero Emission Capable	Zero Emission or Zero Emission Capable	Zero Emission or Zero Emission Capable
South Derbyshire	South Derbyshire do not specify a standard in their policy. However they do specify that a vehicle cannot be more than 8 years old from first registration and a vehicle cannot be licensed beyond 10 years from date of first registration. In effect this means that South Derbyshire fleet is a mix of Euro 6 with a few Euro 5's. It also means there is no need to change the policy every time the euro categories change as the age limit ensures that South Derbyshire are on the latest or previous Euro iteration.			

Lichfield	From 1 April 2022 Lichfield's policy requires all vehicles to be Euro 6 compliant.
Cannock	No specific implementation date for Euro 6 but we won't permit a vehicle which is new to licensing to be over 3.5 years old. We also test twice year for vehicles over 6 years old. This all helps keep old dirty vehicles off the road.
Stoke	Stoke have a maximum age policy for new vehicles (7 years) and more regular testing after they become 10yrs old. It was proposed to reduce the maximum age that vehicles could be licensed but this was removed last year due to the pandemic. We also have issues around air quality and have two main roads that are looking like they might become charging zones in the near future.
Newcastle	Newcastle have a maximum age policy for new vehicles (7 years) and more regular testing after they become 10yrs old. It is suspected that Newcastle may be looking to introduce Euro 6 (or similar idea) at the next Policy review.
Derby	All hackney carriage and private hire vehicles have been given until January 2025 (moved from 2021) to meet the condition that all vehicles are required to be a minimum of Euro 6 Diesel or zero emissions capable ultra-low emissions vehicles.
Birmingham	Birmingham City Council's vehicle policy is based around the age of the vehicle. The policy that required any new or replacement vehicle applications to be for ULEV's has now been postponed from 01/01/21 to 01/01/26. New applications for a private hire vehicle must be for a vehicle under 8 years old and can remain licensed until 12 years old. There is a moratorium on the issue of new hackney carriages licences. Only existing licence holders or those that surrendered a hackney carriage licence in the last two years are allowed to licence a new hackney carriage vehicle. the vehicle must be under 15 years old but also younger than the vehicle it is replacing. The vehicle can remain licensed until it is 15 years old. Whilst the engine specification and emissions is not a factor for licensing purposes it is highly relevant in terms of the Birmingham clean air zone. This came into force in 01/06/21. To comply with the CAZ a vehicle must be Euro 4 or Euro 6 compliant otherwise a daily charge is incurred.
North West Leicestershire	VEHICLE EMISSIONS From 1 September 2021, all hackney carriage vehicles must be fitted with at least a Euro 5 compliant engine or equivalent using retrofit technology (registered since September 2009). Euro 4 compliant engines or older will

	<p>not be permitted. Any vehicle with a Euro 4 compliant engine or older will not be licensed at the time of renewal. From 1 January 2025, all hackney carriage vehicles must be fitted with at least a Euro 6 compliant engine or equivalent using retrofit technology (registered since September 2014). Euro 5 compliant engines or older will not be permitted. Any vehicle with a Euro 5 compliant engine or older will not be licensed at the time of renewal. Applicants will be required to prove that the engine is suitable. Any vehicle with an engine older than the required euro emissions standard will not be licensed at the time of renewal unless it can be verified that the emissions have been suitably lowered using approved retrofit technology. The fee for a licence for an ultra-low emission vehicle (both new and renewal application) is discounted by 15% (compared with a standard vehicle licence (new application and renewal)).</p>
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5.14 At the Recommendations section of the report the Licensing Committee voted for:

a) Age limits on vehicles take precedence over the Emissions date.

5.15 This decision required the endorsement of Full Council in order to amend the existing provision set out in paragraph 19 of the Council's Hackney Carriage and Private Hire Licensing Policy 2019 – 22, which deals the implementation of the Emissions Policy.

5.16 The decision of Full Council on 28th February 2022 was to approve an amendment proposed by Councillor B G Peters and seconded by Cllr M Metcalf:

The amendment read as follows:

“That this Council extend the introduction of the Emissions date from 1st April 2022 to 1st October 2022 and amends the hackney carriage and private hire policy 2019-2022 accordingly”.

The amendment was carried.

5.17 Mr Asif Hussain was not satisfied with outcome of the Council's consideration of the Petition. He is of the view that the Decision of the Licensing Committee should stand, and should not have been referred to Full Council as a recommendation.

5.18 The former Interim Monitoring Officer and the Borough Solicitor both wrote to Mr Hussain to explain why the Petition required to be considered by Full Council.

5.19 On 19th April 2022 the Borough Solicitor John Teasdale wrote to Mr Hussain reiterating the Councils stance as follows:

- 5.20 “I write further to the correspondence sent by the former interim Monitoring Officer Mr Chris Ebberley on 11th February 2022 and Glen McCusker on 9th March 2022, and so as to now confirm the Councils position as the Boroughs Solicitor and Monitoring Officer for the Council.
- 5.21 Having considered this matter further in the hope to allay any concerns that you may have, and also further explore the position, Part3G paragraph 1.1 of the Councils constitution is relevant as it details the functions of the Councils Licensing Committee. There is a list of the functions which follow this paragraph but this does not expressly include the consideration of the Taxi Policy. However I note that paragraph 1.2 does state:
- ‘The Licensing Committee may (my emphasis) be consulted on other matters relating to Licensing policy or procedure’.
- 5.22 Nevertheless consideration by the Licensing Committee of policy is necessary and important given that they make wide ranging decisions in accordance with the respective legislation, but consideration by them is not necessarily required. Albeit good practice. With this in mind consideration of the relevant policy by Full Council is appropriate for the reason explained by Mr Ebberley in his letter of 11th February 2022. His reference to 3B of the Councils constitution ‘functions reserved for Full Council’ is accurate.
- 5.23 The function of amending, modifying, revising, varying, withdrawing or revoking the policy framework except where this power is given to the Executive by Reg. 4.4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 5.24 Given what I have highlighted above, the matter has to be presented to Full Council, but as mentioned earlier in this letter, the usual practice is for such matters to be considered by the Licensing Committee; and for it to make recommendation beforehand.
- 5.25 Added to this, and given my understanding of your concerns to date, I feel it is worthwhile highlighting the Petitions Scheme in Part 4J of the Councils Constitution. Paragraph 13.1 states:
- ‘The Petitions Officer will arrange for each Ordinary petitions to be reported to the Deputy Leader or the next convenient meeting of Cabinet, of the Council or of a Committee or Sub Committee of the Council which has the power to take a decision on the matter’.
- 5.26 Mr Hussain has questioned this and asks for the Appeals Scrutiny Committee to become involved in the matter.
- 5.27 Therefore the matter is referred to the Environment & Health & Wellbeing Scrutiny Committee for consideration.

6. Financial Considerations

This section has been approved by the following member of the Financial Management Unit: Anya Murray

- 6.1 There are no financial implications associated with the process of review of the outcome of this petition.

7. Risk Assessment and Management

- 7.1. The main risks to this Report and the Council achieving its objectives are as follows:

- 7.2. **Positive** (Opportunities/Benefits):

7.2.1. Mr Hussain will have the opportunity to present the matters in respect of his correspondence to John Teasdale dated 19th April 2022.

- 7.3. **Negative** (Threats):

7.3.1. Should the Authority not consider the correspondence from Mr Hussain the Council may be open to challenge.

- 7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

8. Legal Considerations

This section has been approved by the following member of the Legal Team: Glen McCusker – Interim Solicitor

- 8.1. The Petitions Scheme contained within the Councils Constitution in Part 4 set out the procedure for responding to Petitions.

- 8.2. The Petition received from the Taxi Licence Holders was classified as an “Ordinary Petition”, and the procedure for acting on this is set out in paragraph 13.1. This states that the Petition may be reported to a Committee, who have the power to make a decision on the Petition.

- 8.3. The Hackney Carriage and Private Hire Policy was a decision of Full Council, and consequently any amendment to the Policy requires the approval of Full Council. The function of the Licensing Committee is to make recommendations on the Policy for consideration by Full Council, and it is their decision on the Petition which was put forward for consideration by Full Council.

- 8.4. Under the Petitions Scheme if a Petitioner is not satisfied with the outcome of the Council’s Consideration of their Petition, they may request a Review by the relevant Overview and Scrutiny Committee.

8.5. The Overview and Scrutiny Committee may not override the decision-taker, but the decision-taker must consider any recommendations made by the Overview and Scrutiny Committee.

9. Equalities and Health

9.1. **Equality and Health impacts:** The subject of this Report is not a policy, strategy, function or service that is new or being revised. An equality and health impact assessment is not required

10. Data Protection Implications – Data Protection Impact Assessment (DPIA)

10.1. A DPIA must be completed where there are plans to:

- use systematic and extensive profiling with significant effects;
- process special category or criminal offence data on a large scale; or
- systematically monitor publicly accessible places on a large scale
- use new technologies;
- use profiling or special category data to decide on access to services;
- profile individuals on a large scale;
- process biometric data;
- process genetic data;
- match data or combine datasets from different sources;
- collect personal data from a source other than the individual without providing them with a privacy notice ('invisible processing');
- track individuals' location or behaviour;
- profile children or target marketing or online services at them; or
- process data that might endanger the individual's physical health or safety in the event of a security breach

10.2 Following consideration of the above, there are no Data Protection implications arising from this report which would require a DPIA

11. Human Rights

11.1. There are no Human Rights issues arising from this Report.

12. Sustainability (including climate change and change adaptation measures)

12.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) NA

13. Recommendation(s)

13.1. That the Environment & Health & Well Being Scrutiny Committee Review the outcome of the Petition and make such recommendations as they determine.

14. Background Papers

13.1 Hackney Carriage and Private Hire Policy 2019-2021

15. **Appendices**

- 15.1. Appendix 1: Licensing Committee Report 17th November 2021
- 15.2. Appendix 2: Minutes of the Licensing Committee of 17th November 2021
- 15.3. Appendix 3: Petition dated 15th November 2021
- 15.4. Appendix 4: Evidence referred to in the Petition
- 15.5. Appendix 5: Report for Licensing Committee dated 15th December 2021
- 15.6. Appendix 6: Minutes of the Licensing Committee meeting from 15th December 2021
- 15.7. Appendix 7 Report for Full Council meeting from 28th February 2022
- 15.8. Appendix 8: Minutes of Full Council meeting from 28th February 2022