

HIGH PEAK BOROUGH COUNCIL

Licensing Committee

3 November 2022

TITLE:	Taxi and Private Hire Vehicle Licensing Policy review - response to consultation
EXECUTIVE COUNCILLOR:	Councillor Fiona Sloman- Executive Councillor for Housing and Licensing
CONTACT OFFICER:	Alicia Patterson - Head of Environmental Health
WARDS INVOLVED:	All Wards

Appendices Attached:

Appendix 1	Emissions Proposals
Appendix 2	CCTV Proposals
Appendix 3	Survey Results
Appendix 4	Individual Comments
Appendix 5	Local Government Association Guidance

1. Reason for the Report

- 1.1 The report confirms the consultation responses received in response to the review of the Council's current Hackney Carriage and Private Hire Policy.

2. Recommendation

- 2.1 That the Committee considers the consultation responses received to the proposed changes to the Council's current Hackney Carriage and Private Hire Policy.
- 2.2 That the Committee considers any changes to the current Policy to **recommend** to the Council.
- 2.3 That the Committee considers a formal Data Protection Impact Assessment at its next meeting regarding the installation of internal CCTV in licensed vehicles.

3. Executive Summary

- 3.1 It is a requirement that licensing authorities regularly review and update their policies to reflect changes in legislation, guidance and local circumstances. It

has been 5 years since the introduction of the Council's Taxi and Private Hire Vehicle Licensing Policy, and at its last meeting the Committee proposed that a further detailed review was required to consider the following specific areas of the Policy:

- Vehicle Emissions/Air Quality
- CCTV
- General Legislation and Best Practice

- 3.2 The report to the Committee held on 31st March 2022 set out the background to the proposed consultation exercise on the Policy review and confirmed the issues on which it was proposed to consult.
- 3.3 The Council's Climate Change Action Plan (Part 1), agreed by the Executive on 1st July 2021, aims to ensure that all key Council strategies and policies support the Council's commitment to Carbon Zero by 2030. It was considered appropriate, therefore, to review the Council's Taxi and Private Hire Vehicle Licensing Policy to support this aim and to integrate climate change commitments into this policy. The consultation exercise sought comments on proposed measures which would promote reductions in the emissions from licensed vehicles, by changing the Council's Policy regarding vehicle conditions, as outlined in this report.
- 3.4 At its meeting held on 14th December 2021 the Council resolved to carry out a consultation with residents and stakeholders on the use of CCTV in licensed Taxis and Private Hire Vehicles between 1st March and 31st May 2022, with the results of the consultation to be considered by Council in September/October 2022. This report outlines the outcome of the consultation exercise undertaken, which included the proposed updating of the Council's current provisions in its Policy around CCTV and considering whether to make the installation of CCTV a mandatory requirement for all taxis.
- 3.5 It is a requirement that any revised Policy must be approved at a Full Council meeting. Such approval cannot be granted until consultation has been undertaken with a range of statutory bodies and other organisations as is deemed appropriate. The report outlines the responses which have been received to the consultation exercise which should be considered by the Committee before recommending the adoption of a revised Policy to the Full Council.
- 3.6 A summary of responses to each consultation question is attached at Appendix 3 of this report and the detailed comments from responders is included at Appendix 4. Highlights of the responses are included at 7.15 of the report.
- 3.7 In terms of the proposals as to internal CCTV in vehicles, it is recommended that the consultation comments received form part of a formal Data Protection Impact Assessment (DPIA) to inform any formal decision by the Council. It is recommended that the Committee further consider any mandatory proposal at its next meeting and following completion of the detailed DPIA before making any recommendation to the Full Council.

4. How this report links to Corporate Priorities

- 4.1 Supporting our communities to create a healthier, safer, cleaner High Peak.
- 4.2 Protect and improve the environment including responding to the climate emergency.

5. Alternative Options

- 5.1 To consider the outcomes from the consultation process, and the completion of a detailed DPIA, to inform the Committee's recommendation to Full Council to revise the Council's Policy (Recommended).
- 5.2 To make a recommendation to Full Council regarding the installation of internal CCTV in vehicles without consideration of a detailed DPIA (Not recommended).

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

The successful implementation of the Hackney Carriage and Private Hire Licensing Policy should have a positive impact on community safety and assist in the reduction of crime.

6.2 Workforce

The introduction of the revised policy may require additional resource for the Licensing Team.

6.3 Equality and Diversity/Equality Impact Assessment

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

6.4 Financial Considerations

The introduction of the revised policy will have potential financial implications for the Private Hire and Hackney Carriage Vehicle owners as has been highlighted in the consultation responses received. Further, while the purchase of any internal CCTV system required by the Council's Policy will be a burden which falls on vehicle proprietors there will be consequences for the Council including:

- Purchase and maintenance of equipment allowing Council officers to access footage
- Training of vehicle inspectors to verify CCTV installation plus additional time taken to test vehicles

- The additional officer time incurred in obtaining and viewing footage from vehicles for investigation purposes
- Training of proprietors/drivers in their data protection obligations (as part of our responsibility as Data Controller for the CCTV footage)
- The additional officer time incurred in obtaining and viewing footage from vehicles where requested under data protection laws by anyone who is subject to recording (for any purpose whatsoever).

Finally, consideration will need to be given as to those elements of the additional resources required that would be recoverable from the licence holders via an increase in licence application fees, which would be an additional burden to licence holders over and above the cost of the CCTV system itself.

6.5 Legal

The failure of the Council to review, consult and publish the Taxi Licensing Policy on a regular basis may result in a Judicial Review being brought against the Council.

Decisions in relation to a licence are likely to amount to consideration of civil rights and obligations with the result that Article 6 (1) of the Human Rights Act 1998 is engaged.

Should parts of the industry believe the Council's Taxi Licensing Policy is not sound it would be open to them to undertake judicial review proceedings.

Introduction of a mandatory condition for internal CCTV in vehicles will require compliance with all relevant legislation and statutory guidance in relation to the same and the report advises completion of a detailed DPIA before any formal decision is taken by the Council.

6.6 Climate Change

The Council is committed to tackling Climate Change, the revision of this Policy will assist in ensuring that it contributes appropriately to this ambition.

6.7 Consultation

A full consultation has been undertaken and made available to the relevant organisations listed as follows:

- Derbyshire County Council Transport.
- High Peak Borough Council Planning Section.
- High Peak Borough Council Environmental Health Section.
- High Peak Borough Council Licensing Committee Chairman

and Members.

- The Hackney carriage and private hire trade, including all licensed operators and drivers within the Borough.
- Derbyshire Constabulary.
- Derbyshire Police & Crime Commissioner.
- Derbyshire County Council Trading Standards.
- Derbyshire Safeguarding Board.
- DVSA (Driver and Vehicles Standards Agency).

6.8 Risk Assessment

No issues relating to this report.

Mark Trillo

Executive Director (Governance & Commissioning)

Web Links and Background Papers

<https://www.gov.uk/guidance/driving-in-a-clean-air-zone#minimum-emission-standards>

The Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations 2019: Statutory guidance

<https://www.gov.uk/government/publications/air-quality-taxis-and-private-hire-vehicles-phvs-database-guidance/the-air-quality-taxi-and-private-hire-vehicles-database-england-and-wales-regulations-2019-statutory-guidance>

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7. **Detail**

- 7.1 The licensing of Hackney Carriages is governed by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. Private Hire Vehicles are governed by the Miscellaneous Provisions Act 1976. The 1976 Act places a duty on High Peak Borough Council, as the Licensing Authority (“the Authority”), to licence all hire vehicles which operate from the Borough, which are provided with a driver and have less than nine passenger seats.
- 7.2 The Council’s Taxi and Private Hire Vehicle Licensing Policy, which governs the way in which the Council will determine all applications which it receives for Hackney and Private Hire Vehicles, was approved by Council in 2016. The Policy was reviewed by the Licensing Committee in January 2021 in light of the Government’s revised statutory guidance contained in the Statutory Taxi and Private Hire Vehicles Standards 2020 (“Statutory Standards”). As the Policy agreed in 2016 was developed with the specific intention of recognising the significant impact of regional failures around the safeguarding of children

and vulnerable adults, and as a result incorporated many provisions that at the time were only the subject of reports and studies but were felt to be of significance and likely to be required by government at some point in the near future, only limited changes to the Council's Policy were recommended at that time.

7.3 It is a requirement that licensing authorities regularly review and update policies to reflect changes in legislation, guidance and local circumstances. Other than the review in January 2021, it has been 5 years since the introduction of the Council's Taxi and Private Hire Vehicle Licensing Policy. It was agreed at the meeting of the Committee on 31st March 2022 that a further detailed review was required to consider the following specific areas of the Policy:

- Vehicle Emissions/Air Quality
- CCTV
- General Legislation and Best Practice

The Committee also agreed that public consultation, including all relevant statutory agencies and stakeholders, should be undertaken before any recommendation to the Council to revise the current Policy could be made. The principal areas for consultation would be around proposed revisions to the Council's Policy to support the Council's commitment to achieving Carbon Zero by 2030 around vehicle emissions/Air Quality and in relation to the installation of CCTV in vehicles.

Vehicle Emissions/Air Quality

7.4 The Council's Climate Change Action Plan (Part 1), agreed by the Executive on 1st July 2021, aims to ensure that all key Council strategies and policies support the Council's commitment to Carbon Zero by 2030. It was considered appropriate, therefore, to review the Council's Taxi and Private Hire Vehicle Licensing Policy to support this aim and to integrate climate change commitments into this policy. Reductions in the emissions from licensed vehicles will also contribute towards the Council's obligations with regards to air quality management in the Borough.

7.5 The Council's current Policy requires that all new vehicles presented for licensing must have no damage affecting the structural safety of the vehicle and have no more than 75,000 miles on the odometer along with a valid MOT certificate which has been issued no more than one month prior to the application being submitted. The consultation exercise (details attached at Appendix 1) proposed the removal of the 75,000 mile requirement to allow drivers to source vehicles with a higher mileage but to introduce instead vehicle standards which will reduce the emissions from licensed vehicles.

7.6 The consultation exercise sought views on proposed revisions to the Policy to require licensed vehicles to comply with the emission requirements below:

- At first application – Vehicles must meet or exceed Euro 6 (Diesel) Euro 4 (Petrol) emissions standards.
- At renewal – From 01/04/2024 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 6 emissions standards (Diesel) Euro 4 (Petrol) emissions standards.

Where vehicles do not meet the relevant emissions criteria the proprietor may:

- have the vehicle adapted/modified to meet the standard and provide evidence of this;
- change the fuel that is used to a cleaner alternative, such as bio diesel; or
- replace the vehicle with one that meets the emission standard.

CCTV

7.7 The Statutory Taxi and Private Hire Vehicle Standards 2020 confirm the Department for Transport's view that CCTV can provide additional deterrence to prevent the possibility of harm to taxi passengers and provide investigative value when it does. The standards suggest that the use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.8 The Standards recommend that all licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues. The guidance indicates that while only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. It also recognises that the imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will, therefore, require an appropriately strong justification and must be kept under regular review.

7.9 The Council's current Taxi and Private Hire Vehicle Licensing Policy provides that image recording systems may (but not must) be used in hackney carriage and private hire vehicles licensed by the Council only where the equipment and systems comply with the specification detailed in the Policy and where consent in writing has been issued to the licensee of the vehicle in advance of use.

7.10 Further, the Police and Crime Commissioner for Derbyshire has called upon all Derbyshire Councils to make camera installation a condition of taxi licensing in order to better protect women and the vulnerable. Taking all these

considerations into account, at its meeting held on 14th December 2021 the Council resolved to carry out a consultation with residents and stakeholders on the use of CCTV in licensed Taxis and Private Hire Vehicles between 1st March and 31st May 2022, with the results of the consultation to be considered by Council in September/October 2022.

- 7.11 At its last meeting, the Committee resolved to carry out consultation regarding the use of CCTV in taxis on the basis of the details contained in Appendix 2 attached. These proposals outline the changes which will be required in any event to the Council's existing policy, and outlines the key issues which the Policy must address in this area including, in particular, in relation to data protection. The consultation exercise also consulted on the potential for all taxis to be required to have CCTV in place as a condition of their licence. As highlighted at the last meeting of the Committee, such a mandatory condition would have the potential implication of the Council becoming the "data controller" under the Data Protection Act 2018 and as such become the body which has legal responsibility under the Data Protection Act 2018 for all matters concerning the use of personal data. Further information regarding the legislative issues arising from the installation of internal CCTV is contained in the Local Government Association Guidance - Developing an approach to mandatory CCTV in taxis and PHVs, attached at Appendix 5 to this report.

General Legislation and Best Practice.

- 7.12 At the last review of the Council's Policy in January 2021 only limited changes to the Council's Policy were recommended, including: a requirement for all drivers on submission of their next DBS Certificate to sign up to the DBS on-line checking service; agreement of a formal information sharing protocol with Derbyshire Police; and proposed changes to the assessment of previous convictions in the determination of licence applications. These changes to the Policy were also included in the consultation exercise, together with consideration of any further proposed changes to ensure that the Council's Policy reflects best practice.

Consultation

- 7.13 It is a requirement that any revised Policy must be approved at a full Council meeting. Such approval cannot be granted until consultation has been undertaken with a range of statutory bodies and other organisations as is deemed appropriate, as resolved at the last meeting of the Committee.
- 7.14 The consultation exercise undertaken sought to engage all of the Hackney Carriage and private hire trade including all licensed operators and drivers within the Borough as follows:
- A questionnaire was sent out to all Hackney Carriage and Private Hire Drivers and Vehicle owners.
 - Copies of consultation proposals were made available to view on the Council's website and a hard copy made available at the Buxton Reception.

- Correspondence was sent out to all Hackney Carriage and Private Hire operators and drivers licensed with the Authority.

Details of the number of licence holders, and the response rate to the consultation exercise, are as follows

	HPBC
Number of Hackney Carriages	129
Number of Private Hire Vehicles	159
Number of Operators	44
Number of Drivers	313
Date email / post sent out	23.08.2022
Reminder sent out	08.09.2022
Cut-off date	16.09.2022
Number of responses	120
% of drivers who responded	38%

7.15 The summary of responses to each consultation question is attached at Appendix 3 and the detailed comments from responders is included at Appendix 4. Highlights of the responses are as follows:

- 71.66% of respondents strongly agreed or agreed that the proposed revised Policy was easy to understand.
- 85% of respondents strongly agreed or agreed that the proposed revised Policy provides enough protection for children and vulnerable adults.
- 50% of respondents strongly agreed or agreed with the proposed revised Policy regarding Vehicle Emissions, with 31.67 strongly disagreeing or disagreeing with the proposals.
- 85% of respondents were concerned about the financial burden of complying with the new Emissions Standards.
- 32.5% of respondents strongly agreed or agreed with the proposal that all vehicles should have internal CCTV, with 34.84% strongly disagreeing or disagreeing.
- 78.99% of respondents thought that internal CCTV should not be a mandatory condition of the Policy with 14.29% in favour of a mandatory condition.

- Where a licence holder had suffered from anti-social/criminal behaviour as part of their job, 32.99% felt that internal CCTV would have assisted in those circumstances and 67.01% felt it would not.
- 68.64% of respondents were concerned at the financial burden from installing CCTV in their vehicle.

In the detailed responses, concerns are raised, in particular, at the financial consequences and timescale for implementation of the Vehicle Emissions changes. In terms of internal CCTV, concerns relate to privacy and costs concerns amongst others.

Way Forward

- 7.16 The Committee needs to consider what, if any, recommendations for amendment to the Council's Taxi and Private Hire Vehicle Licensing Policy should be made for the approval of the Full Council, having regard in particular to the consultation responses which have been received.
- 7.17 In terms of the proposals as to internal CCTV in vehicles, it is recommended that the consultation comments received are considered as part of a formal Data Protection Impact Assessment (DPIA) to inform any formal decision by the Council. The DPIA would consider the appropriateness of a mandatory requirement for internal CCTV in light of all the available evidence, including the consultation responses received; consider the privacy impacts of any requirement; advise as to the most appropriate technical approach to implementation; confirm the implications for the Council's Licensing Team; and to ensure compliance with all relevant legislation and guidance issued by the Surveillance Camera Commissioner and the Information Commissioner. It is recommended that the Committee further consider any mandatory proposal at its next meeting and following completion of the detailed DPIA.