

# Crawley Borough Council

## Report to Licensing Committee

7 November 2022

### Update Report - Extension of 11-Year Age Limit of Licensed Vehicles due to Covid-19 Pandemic

Report of the Head of Community Services - HCS/051

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#### 1. Purpose

- 1.1 The purpose of the report is to provide the Licensing Committee with an update following the decision made at its meeting on 1<sup>st</sup> March 2022 to further extend the term that a Crawley Borough Council licensed vehicle can remain in the licensed trade beyond the Council's standard 11-year age term due to the Covid-19 pandemic.
- 1.2 At the meeting, the Committee agreed to extend the life term of such vehicles for a further 12 months until 28<sup>th</sup> March 2023, subject to this being further reviewed by the Committee in the interim period, and in any event before the end of March 2023 to allow those impacted to be informed.

#### 2. Recommendations

- 2.1 That the Committee:
  - a) Notes the report, including the number of vehicles impacted by this decision up to 28<sup>th</sup> March 2023, and the ongoing concerns regarding the suitability, standard and safety of such vehicles falling within the extension period, as well as generally.
  - b) Agrees to revert back to the 11-year age limit for all licensed vehicles (after 28<sup>th</sup> March 2023).

#### 3. Reasons for the Recommendations

- 3.1 The Licensing Committee requested that the matter be further reviewed before the 28<sup>th</sup> March 2023, hence the matter being returned to Committee for an interim update in advance of this end date. (NB The matter was scheduled to be considered by Members at the September Committee but this was cancelled due to the period of national mourning.)

#### 4. Background

- 4.1 Since approximately 2015, the Council as Licensing Authority has instated an age limit of 11 years for all licensed vehicles. If a vehicle is licensed up to 4 years of age, a Certificate of Compliance is required at the time of being first issued with a license and then every 12 months until the vehicle reaches 4 years of age. After 4 years of age, a Certificate of (Mechanical) Compliance is required every 6 months until the vehicle comes out of the trade.

- 4.2 The Council's [Hackney Carriage and Private Hire Licensing Policy 2022](#) details this age limit policy in more detail and also sets out some "by exception" circumstances which are considered on their own merit on a case by case basis.
- 4.3 In the case of licensed vehicles, a Certificate of (Mechanical) Compliance can be in place of an MOT and is similar. A number of Council-approved garages are authorised to carry out the Certificate of Compliance testing on behalf of the Council.
- 4.4 in addition to mechanical fitness and other checks to ensure compliance with the Council's vehicle standards and licence conditions and/or byelaws. In much the same way as an MOT Certificate, the Certificate of Compliance includes whether or not a vehicle has failed the test and/or if there are any advisories of note which require action by the licensed driver/proprietor.
- 4.5 Due to the Covid-19 pandemic, a number of drivers opted to SORN their vehicles and cease to use them as licensed vehicles for extended periods of time and/or remove them from being licensed so that they could be used for another private purpose.
- 4.6 In recent months as trade has increased, the Taxi Licensing Service has seen an increase in demand for services and a number of drivers with these same vehicles returning to the licensed trade, seeking to become re-licensed. This is progressed where the vehicles are able to meet the Council's required vehicle safety standards and licensing requirements.
- 4.7 Committee Members will be aware that on 9<sup>th</sup> February 2022, following requests from the Hackney Carriage Association, due to the financial challenges faced by its trade members due to the impact of the Covid-19 pandemic, the Head of Community Services (in conjunction with the Portfolio Holder and former Licensing Chair and Vice Chair) took an [urgent decision](#) to extend the 11-year age limit of licensed vehicles falling into that upper age category for one year, with the extension running from 1<sup>st</sup> February 2021 to 31<sup>st</sup> January 2022, subject to a series of terms and conditions being in place. This matter was presented to the Licensing Committee on 1<sup>st</sup> March 2021 and noted.
- 4.8 On 1<sup>st</sup> March 2022, the Licensing Committee met to consider feedback arising following a consultation exercise to update and amend the Council's Private Hire and Hackney Carriage Licensing Policy. Feedback included a request that the Committee further extend the 11-year age limit for another 12 months due to the ongoing impact of the Covid-19 pandemic. The Committee was reminded of the urgent decision taken by the Head of Community Services on 9<sup>th</sup> February 2021.
- 4.9 The Committee was informed by Officers of public safety concerns regarding a further extension of the 11-year age limit, but a [decision](#) was made to further extend the age limit until 28<sup>th</sup> March 2023.
- 4.10 In making this decision the Committee requested that the matter be returned to it in advance of 28<sup>th</sup> March 2023 to be appraised of any concerns pertaining to vehicle suitability and safety. The primary purpose and overriding principle of the licensing regime is public safety, and, given the ongoing concerns previously expressed by officers regarding the apparent lowering of standards in the trade across the vehicle fleet in terms of vehicle maintenance/safety and non-compliance with licence conditions, evidence has been gathered to highlight the increasing number of vehicles coming to notice by the Council's authorised garages and the Council's Taxi Licensing Service as part of the regulatory and compliance process.

## 5. Current Situation

- 5.1 There are currently 684 private hire and hackney carriage vehicles licensed by the Council. In reaching its decision to further extend the 11-year age limit, the Committee asked that the matter be kept under review and information be collated by the Taxi Licensing Team regarding vehicle standards, advisories identified as part of the Certificate of Compliance process, and issues identified by officers when carrying out their compliance and regulatory functions.

### Current upper ages of vehicles benefitting from the 2 year extension

*NB These figures are updated since this report was first prepared for the September Licensing Committee.*

- 5.2 Vehicles now within the 10 year old age brackets Vehicles now within the 11 years old age bracket - 24  
Vehicles now within the 12 year age bracket - 15  
Vehicles now 13 years old 0

### Advisory Actions

- 5.3 For the period 1<sup>st</sup> April 2022 – 23<sup>rd</sup> August 2022 there were 263 instances where advisories were noted, with some being legacy matters noted on previous Certificates of Compliance but not acted on by drivers/proprietors.
- 5.4 For ease of reference, explanatory notes and a table has been prepared to identify the nature of advisories being identified by the garages as part of the Certificate of Compliance process on a month-by-month basis. This is included at **Appendix A**
- 5.5 Between 24<sup>th</sup> August and 19<sup>th</sup> October 2022, the Taxi Licensing Service recorded 115 advisories being registered, 15 of which apply to vehicles over 11 years old.
- 5.6 As raised previously, officers are noting a far higher rate of advisory actions and works being required so that a vehicle can pass its Certificate of Compliance than before the Covid-19 Pandemic.

### Livery, Identification of Vehicles, Licence Condition Breaches

- 5.7 At the recent Hackney Carriage and Meter Testing process in July 2022, of 63 drivers that attended, 20 were suspended and/or required to have elements of signage replaced due to this being in poor condition and/or failing to meet the required standard or compliance with licence conditions. A further 12 drivers were suspended for failing to have an in-date fire extinguisher or first aid kit, with the oldest noted as 1997. The Taxi Licensing Team are also taking this up with the Council's Nominated Garages which should be checking this at the time of Certificate of Compliance and vehicles failed where these matters are not in place or current. The Service also now requires drivers/proprietors to write their vehicle registration on the first aid kit and the fire extinguisher to stop the practice amongst some drivers of swapping items so that a Certificate of Compliance is passed.
- 5.8 This gap in compliance supports the previous observations by officers that some drivers are waiting longer to carry out vehicle maintenance and replacement of service and other items that could impact driver and passenger safety (e.g. replacement of brakes, worn tyres, structural matters, poor body work condition, frayed seat belts, cracked windscreens).

- 5.9 The Taxi Licensing Service continues to issue Penalty Points and suspend or refuse to renew vehicles where they do not meet the required standards for safety, vehicle condition and public safety reasons, alongside failure to comply with the licensing regime.
- 5.10 The Council's Nominated Garages are under an obligation to report such matters to the Taxi Licensing Service and regulatory action has been taken including suspension of vehicles, penalty points and warning where a vehicle has failed the Certificate of (Mechanical) Compliance and/or the vehicle has presented in such a poor condition to the garage which causes concern from a safety perspective.
- 5.11 It has been noted that advisories are not being actioned in some cases from one Certificate of (Mechanical) Compliance to the next which is concerning given that these vehicles are used as a "tool of the trade" and operated by professional drivers for hire and reward. This is identified in **Appendix A**.
- 5.12 In future, the Taxi Licensing Service will be seeking approval from the Committee that advisories are carried out within a specified timescale after the Certificate of Compliance is issued to address these concerns and maintain standards.

#### Changing of Vehicles Irrespective of 12 Month Extension

- 5.13 Many licensed drivers have made a decision that as the vehicle advances toward the previous 11-year age limit, the ongoing costs associated with maintenance, high mileage and condition of the vehicle at that time outweighs the cost of a newer, more efficient model of vehicle. Of key importance to drivers is that the vehicle is reliable and this diminishes as the vehicle ages, as it is intensively used to cover significant mileage and its condition/roadworthiness deteriorates. Below is a summary of reasons given by drivers wishing to change vehicle irrespective of the current extension:
- Moving to a more economical vehicle – cost of fuel and older vehicle inefficiencies with newer and hybrid vehicles being cheaper to run and which perform better.
  - Cost of emissions surcharges in certain areas including London impact the income of drivers and this cost is passed to customers.
  - Older vehicles not reliable enough and break down more frequently which is a challenge on journeys where passengers are on board and poses a safety risk.
  - The cost of repair and maintenance outweighs investing in a "new" vehicle.
  - Some operators, mainly at Gatwick Airport and in relation to specific contracts, require a much newer vehicle be licensed as part of their company requirements.
  - Emissions and green targets are important.
- 5.14 In relation to this final point, the Taxi Licensing Service will be presenting further reports to the Committee on a reduction in engine size for vehicles, alongside cleaner, greener targets in terms of emissions, and types of vehicle to be licensed in the future. The Council has already identified a climate crisis and has indicated that the taxi trade plays a key role in this. When replacing vehicles, drivers are recommended to consider more environmentally friendly vehicles as a means to allow that vehicle to remain the trade for its life term.
- 5.15 For vehicles attaining the 11 year plus age range in April 2022, 64 drivers/proprietors had already taken the decision to replace the vehicle for the reasons above. As of the end of August 2022 a further 53 vehicles were replaced despite the 12 month extension.
- 5.16 For the period 1<sup>st</sup> April 2022 – 23<sup>rd</sup> August 2022, the Service processed 23 applications to transfer an existing licence from one vehicle (due to condition, age,

damage) to a new vehicle and 41 applications for new vehicles to enter the trade. As the taxi trade picks up in terms of demand, the Service has seen a resurgence in drivers/proprietors seeking to purchase new vehicles to meet customer demand and vehicle safety as well as greater efficiencies afforded to the driver/proprietor associated with newer vehicles.

- 5.17 However, there remains a concerning trend of older vehicles and those vehicles which have had significant usage not being maintained correctly or maintenance stretched to the last possible opportunity which reduces the standard of Crawley Borough Council licensed vehicles, and ultimately public safety. The primary purpose and overriding consideration of the licensing regime is public safety.

## **6. Other Considerations**

- 6.1 The Licensing Committee agreed to amend and update the Hackney Carriage and Private Hire Licensing Policy. This took effect on 1<sup>st</sup> April 2022 and reflects the current position in relation to the extension of the 11-year age limit in respect of licensed vehicles. The Policy includes matters relating to the need for licensed drivers to be fit and proper to hold a licence and that vehicles must meet minimum standards to be licensed. The safety of drivers, passengers and vehicles is the overriding principle
- 6.2 Furthermore, as part of the Policy review, due regard was had for the Department for Transport's [Statutory Taxi and Private Hire Vehicle Standards](#). These Standards focus on safeguarding, alongside a range of driver/proprietor, operator and vehicle licence standards and safety measures. The Standards state that:

*“Any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle.”*

- 6.3 As previously stated, the Licensing Committee implemented the 11-year age limit on licensed vehicles in approximately 2015. Prior to this there was no limit. Before the temporary extension to the life of a licensed vehicle, as a courtesy, the Taxi Licensing Service has generally reminded trade members at least 12 months ahead of the maximum age limit the need to make provision to change their vehicle.
- 6.4 The Licensing Committee has already indicated that the relaxation of the 11-year age limit for licensed vehicles will be for an additional 12 months (subject to review). Currently, there are vehicles in the fleet which are 11, 12 and 13 years of age. It is worth noting that the Taxi Licensing Service are seeing mileage rates exceeding 300,000 – 400,000 miles in these age ranges.
- 6.5 By bringing this update to the Committee in advance of March 2023, any matters arising can be appropriately communicated to the Trade in good time ahead of any change.

## **7 Staffing, Equalities, Financial, and Legal Implications**

- 7.1 There are no extra staffing or financial implications for the Council arising from this report as other than the increased level of regulatory and compliance checks needed to cater for an ageing fleet of vehicles which by their nature will have additional issues and a greater need for maintenance and monitoring.

- 7.2 There are no financial or staffing consequences that will arise from the changes to the Service is self financing and the fees are used to offset costs. There are no extra staffing or financial implications for the Council arising from this report as other than the increased level of regulatory and compliance checks needed to cater for an ageing fleet of vehicles which by their nature will have additional issues and a greater need for maintenance and monitoring.
- 7.3 Councillors must ensure that they exercise their decision making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 7.4 The Council is required to consider the impact any decision may have on crime and disorder in the area (Crime & Disorder Act 1998) which states as follows;
- (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;
- (a) Crime and disorder in its area(including anti-social and other behaviour adversely affecting the local environment, and
- (b) The misuse of drugs, alcohol and other substances in its area, and
- (c) Re-offending in its area.
- 7.5 Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the 'public sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- (b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- The characteristics protected by the Equality Act are:
- age
  - disability
  - gender reassignment marriage/civil partnership pregnancy/maternity race
  - religion/belief
  - gender and sexual orientation

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