

APPLICATION BY PART OF THE LICENSED HACKNEY TRADE TO AMEND THE TAXI LICENSING POLICY.

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Wards Affected: All
Key Decision No
Report To: Scrutiny Committee for Community, Leisure and Parking
1 February 2023

Purpose of Report

1. To present a request from a section of the licensed hackney and private hire trade to amend the Taxi Licensing Policy relating to the age of vehicles used by the trade.

Summary

2. On 1st October 2012, the Council introduced a Taxi Licensing Policy. Following consultation, it has been revised and re-adopted on several subsequent occasions. From 1st October 2017, Section 4 of the policy introduced a restriction on the age of licensed hackney carriage or private hire vehicles to 10 years.
3. A section of the licensed hackney and private hire trade has formally written to the Licensing Authority requesting amendments to increase the vehicle age limit provision.

Recommendations

4. **The Committee's options are**
 - a) **Recommend to the Cabinet Member that the request is declined and the vehicle age restrictions continue to be enforced at 10 years.**
 - or
 - b) **Recommend to the Cabinet Member that the Council engages in a 6-week consultation to amend the current Taxi Licensing Policy, relaxing the current vehicle age restriction of 10 years to 12 years.**

Background

5. The current Taxi Licensing Policy sought to ensure that members of the public have access to an effective, professional and safe hackney carriage and private hire service in Mid Sussex. In formulating the draft policy, we compiled the existing conditions attached to licences and reviewed a number of national and local policies and conditions.

In drafting the 2012 Policy, the Licensing Team undertook initial consultation with the trade on the main changes proposed; these included the introduction of an age restriction on vehicles and additional testing of vehicles over a certain age.

6. During the consultation phase, the Licensing Team wrote to all licensed hackney carriage drivers, private hire drivers, and operators, informing them of the draft policy and inviting them to comment.
7. In March 2012, following the consultation, the Licensing Committee considered the policy and the trade were invited to attend the Committee. The Committee agreed the Policy including Section 4 to limit the age of vehicles to be licensed to 10 years old. The Committee proposed that from 1st October 2017 the Council would not licence any vehicle over the age of ten years from its initial DVLA registration.
8. We received 108 responses during the consultation period regarding this section of the policy, of which 47 were against the proposal.
9. The policy was formerly adopted by Council in July 2012 with effect from 1st October 2012. The final wording of Section 4.4 in the Policy is as follows:

Vehicle age restrictions

From 1st October 2017 the Council will not license any vehicle over 10 years of age from the date of initial DVLA registration.

Whilst it is recognised that all licensed vehicles require regular maintenance it is accepted that the older a vehicle the more wear and tear it will have and the frequency of maintenance needs to be increased. It is also recognised that newer cars have improved safety features. Restricting the licensable age allows for a more modern fleet with greater safety features and reduces the likelihood of badly maintained vehicles.

10. On 29th June 2017, prior to the introduction of the 10-year vehicle age policy in October 2017, the Scrutiny Committee for Community, Housing and Planning considered a further request from the Mid Sussex Taxi Association (MSTA) to increase the vehicle age limit to 15 years and to defer the implementation of the policy for two years, to 2019. The reasons given were changes in financial circumstances at that time. Following a full consideration of the representations made by the MSTA, the Members of the Scrutiny Committee agreed unanimously that no changes to the Licensing Policy were required.
11. The Policy was therefore introduced on 1st October 2017. Since that time, a small number of drivers have made individual applications to the Licensing Sub A Committee to allow their vehicles to be licensed for more than 10 years. The Sub Committee has determined on each occasion that there were no exceptional circumstances to depart from the policy in these cases.
12. The vehicle age limit has now been in place for over 5 years.
13. Since the introduction of the vehicle age requirement, the full Policy has been reviewed, consulted on, and updated on three further occasions. The current version of the Policy commenced on 1st May 2021. There have been no amendments to the vehicle age limit during these reviews.
14. On the 10th October 2022, the Licensing Authority received a petition from a section of the Licensed Trade requesting that we consider amending the Policy in relation to the vehicle age limit. The reasons provided in their

request are the current financial circumstances that some drivers find themselves in, together with the additional requirements of vehicle livery and CCTV that have also been implemented in 2022.

15. The petition named 75 drivers. It is noted that three drivers have signed twice for different Hackney Vehicle licence numbers and there are 14 entries that are unsigned. The submitted document and petition are contained in Appendix 1
16. They cite the changing financial circumstances as the reasons for requesting a change in the policy. These being:
 - a) Hackney vehicles were mandated to be white in colour from 1st October 2022 which in some cases has meant a change of vehicle or the current vehicle being resprayed or wrapped white;
 - b) The costs of fitting CCTV cameras into licensed vehicles;
 - c) Increased costs to drivers in respect of fuel, servicing, tyres and MOT;
 - d) Rising inflation.
17. The petition requests an extension from 10 to 12 years on the age limit and that a vehicle would be extended if:
 - Prior to the 10-year period the vehicle is inspected by the Licensing Team
 - The vehicle must be roadworthy with an up-to-date MOT and Fitness test
 - The vehicle must be of clean appearance inside and out
 - All vehicles must have the bodywork free from dents, scratches, or defects
 - The Licensing Team are the final decision makers on whether an extension should be granted
 - No appeal against the Licensing Team decision.
18. The Licensing Team have looked at the age policy for other Sussex District & Boroughs and the results are at appendix 3. It is the Team view that they are taking a proportionate and consistent approach to the 10 year age limit. It is also the Teams view is that the suggested change could potentially put a Licensing Officer in a position where drivers could state that one driver is being treated more favourably than another. In addition the team do not have the resources to manage the expected workload that will result from this change.
19. Currently, if an applicant applies with a vehicle over 10 years of age and the Licensing Team refuse to renew or grant the licence, the applicant may appeal to the Licensing Sub A Committee. The applicant must demonstrate to the Committee the exceptional circumstances as to why the Council should deviate from the Policy. If the Sub A Committee refuse to grant, the applicant may exercise their right of appeal to the Magistrates' Court.
20. Since the introduction of the Policy, three vehicle licence holders have made such representations before the Licensing Sub A Committee. These individual cases were not accepted as amounting to exceptional circumstances.
21. Attached to the report are the current vehicle age restrictions for neighbouring authorities.

Options

22. Following consideration of this request the Committee could recommend to the Cabinet Member that the request is declined and the vehicle age restrictions continue to be enforced at 10 years. Alternatively, the Committee could recommend to the Cabinet Member that the Council engages in a 6-week consultation to amend the current Taxi Licensing Policy, relaxing the current vehicle age restriction of 10 years to 12 years.
23. The Committee will note that Officers have made two recommendations but in view of paragraph 19 and the current ability to apply to use a vehicle over 10 years old in exceptional circumstances, the committee are invited to recommend to the Cabinet Member that the request is declined, and the vehicle age restrictions continue to be enforced at 10 years.

Policy Context

24. This report directly relates to the Mid Sussex District Council Taxi Licensing Policy.
25. Sections 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 provide the basis for the vehicle age policy where:

A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

26. In respect of both types of licensed vehicles there is a right of appeal against conditions attached to a licence or refusal to renew a licence, in respect of Hackney Carriages:

47 Licensing of Hackney Carriages

(3) Any person aggrieved by any conditions attached to such a licence may appeal to a magistrates' court.

In respect of Private Hire Vehicles:

48 Licensing of Private Hire Vehicles

(7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a magistrates' court.

Risk Management Implications

27. Any extension to the current vehicle age policy may impact on the District Council's commitment to reducing emissions as the vehicles that will be extended are likely to be the older diesel vehicles which are generally more polluting.

Equality and customer service implications

28. None identified.

Sustainability Implications

29. It should be noted that there is a commitment within the current Policy to reducing Licensed Vehicle Emissions. Although the licensed trade only forms a small proportion of the current vehicle traffic, they do travel a large number of miles each year. From 1st October 2023 all newly licensed diesel vehicles must be compliant with Euro 6 emissions standard and petrol vehicles with the Euro 4 standard. Any change in the vehicle age limit may impact on this commitment by delaying the replacement of older vehicles.

Background papers

Appendix 1 - Proposal and petition

Appendix 2 – Neighbouring Authorities vehicle age limits