

**Manchester City Council  
Report for Resolution**

**Report To:** Licensing and Appeals Sub Committee – 2 February 2010

**Subject:** Allocation of Hackney Carriage Proprietors' Licences

**Report of:** Head of Street Management and Enforcement

---

**Summary**

On 23 November 2009 the Licensing and Appeals Committee considered a report in relation to future policy regarding the allocation of hackney carriage proprietors' licences by Manchester City Council.

The decision of the Committee was to recommend a future policy of managed growth and that a Sub Committee of the Licensing and Appeals Committee consider the options and supporting policies required in respect of managed growth.

This report provides information on the options and supporting policies required

**Recommendations**

That the sub committee consider the information within the report and make recommendations to the Licensing and Appeals Committee in respect of the following

- A method of allocation of hackney carriage proprietors' licences
- Criteria to be applied in terms of determining eligibility for a hackney carriage proprietor's licence
- A vehicle specification policy
- A special consideration policy

---

**Wards Affected: All**

<b>Community Strategy Spine</b>	<b>Summary of the contribution to the strategy</b>
Performance of the economy of the region and sub region	
Reaching full potential in education and employment	The allocation of additional hackney carriage proprietors' licences provides further employment opportunities within the City however, the provision of additional licensed vehicles may have a detrimental impact on employment opportunities for existing licence holders
Individual and collective self esteem – mutual respect	
Neighbourhoods of Choice	

**Full details are in the body of the report, along with any implications for:**

- Equal Opportunities Policy
  - Risk Management
  - Legal Considerations
- 

**Financial Consequences – Revenue**

The administration of the allocation of hackney carriage proprietors' licences has been undertaken by the Licensing Unit. The administration associated with the process is considerable. It is not possible at this stage to quantify the costs involved as these will be directly affected by the policy adopted. The costs associated with the administration of a waiting list or a ranked list formulated at each allocation will be considerably more than the costs associated with a lottery.

The costs associated with the process are recoverable via licence fees, and may require an amendment to current fee levels.

**Financial Consequences – Capital**

---

**Contact Officers:**

Name: Jenette Hicks  
Position: Licensing Unit Manager  
Telephone: 0161 234 4962  
E-mail: [j.hicks1@manchester.gov.uk](mailto:j.hicks1@manchester.gov.uk)

**Background documents (available for public inspection):**

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact the contact officer above.

Report to the Licensing and Appeals Committee – Allocation of hackney carriage proprietors' licences 23 November 2009, 1 June 2009, and 29 June 2009

## **1.0 Introduction**

- 1.1 This report provides information in relation to 3 options for a managed growth policy in respect of the allocation of hackney carriage proprietors' licences in Manchester. There may be other options that the sub-committee wishes to consider.
- 1.2 The 3 identified options are (in no particular order) allocation of licences by
- A newly created waiting list
  - A lottery system
  - A system of ranking expressions of interest at each point of allocation of licences
- 1.3 In relation to the 3 options listed above the report provides information in respect of
- Criteria for eligibility
  - Vehicle specification policy for newly allocated proprietors' licences
  - Special consideration policy

## **2.0 Background**

- 2.1 In June 2009 the Licensing and Appeals Committee considered two reports on the allocation of hackney carriage proprietors' licences and a review of existing policy was commenced as a result of information contained within those reports.
- 2.2 The review involved a 3 month consultation involving a wide range of people, e.g. hackney carriage and private hire trade, local businesses and the public.
- 2.3 The results of the consultation process were presented to the Licensing and Appeals Committee in a report supported by a presentation at its meeting on 23 November 2009.
- 2.4 The Committee determined to recommend to Council that the City Council's future allocation policy for hackney carriage proprietors' licences should be one of managed growth.
- 2.5 The Committee established a Sub Committee and requested officers to prepare a further report providing detailed information in respect of the information outlined at Para 1.2. and 1.3 above. This report provides the further information requested.
- 2.6 This report makes further reference to the findings of the consultation exercise. In general terms these refer to the comments of the licensed hackney carriage and private hire trade. Although the public and city's businesses were consulted on the review their comments were requested purely in respect of whether the Council should delimit or develop a revised policy of managed growth.

### **3.0 Suggested Criteria for the allocation of hackney carriage proprietors' licences**

As noted in paragraph 1.2 there are currently three options being considered for the allocation of hackney carriage proprietors' licences and criteria need to be developed to determine eligibility in relation to these options. The eligibility criteria would determine

- A position on a waiting list at the time the waiting list is compiled  
or
- Entry criteria for a lottery  
or
- A position on a list which is devised at each point of allocation and dispensed with immediately following allocation.

The Committee may also choose to consider alternative options

It is essential that criteria used for determining the allocation of hackney carriage proprietors' licences are non discriminatory against any sector of the population, and that all criteria have a clear audit trail to evidence compliance with the criteria.

### **3.1 Years of Service**

Although the licensed trade show strong support for years of service/ service history being included within the eligibility criteria, there are a number of issues that need to be considered in relation to this.

- 1 One view is that hackney carriage proprietors' licences should be allocated to drivers with a high number of years service, as these drivers will have a good knowledge of the city's geography and will therefore be able to offer a good service to passengers. However this view also raises the question of at what point does additional years service bring no further benefit in terms of knowledge? For example is a driver with 20 years experience more knowledgeable of Manchester's current road network than a driver with the previous 3 years experience?
- 2 A recent Employment Tribunal judgement has ruled that uncapped years of service as a criterion is discriminatory.
- 3 The allocation of a proprietor's licence to an individual does not provide any guarantee that the experienced driver, as the licence holder, will drive the vehicle. They may choose to track it out to the highest bidder.
- 4 A licensed hackney carriage vehicle can only be driven by a licensed hackney carriage driver. It could be argued that it is the skills of the driver that are key as opposed to any prerequisite in terms of the vehicle licence holder.
- 5 It could also be argued that the allocation of new licences is in some way recognising the drivers' commitment to the trade. However Licensing Unit

statistics demonstrate that since 1997 (first year that statistics are available) 36 % of new proprietors have transferred (sold) plates within 2 years of issue.

- 6 In terms of considering drivers' knowledge of the area, members may wish to consider whether there is any significant difference between the topographical knowledge of hackney carriage and private hire drivers, having regard to recent technical developments such as satellite navigation systems. All licensed private hire and hackney carriage drivers are required to undertake a knowledge test although there are distinct differences between the two types of tests. Private hire drivers' knowledge tests are restricted to a geographical area of the City. Private hire drivers are asked to indicate whether they wish their knowledge test to be North, South or Central City based. However a hackney carriage driver is required to demonstrate much greater topographical knowledge of Greater Manchester and surrounding areas.

### **Members need to determine**

Is years of service to be considered as eligibility criteria? if so

- How is years of service to be defined?
- Should this relate to service as a hackney carriage driver or both hackney carriage and private hire?
- Should service be restricted to Manchester or should service from other local authorities also be included as relevant, if so how should this be defined?
- Should a minimum years of service be required with a maximum cut off point also being imposed?
- Should service be within a prescribed period e.g. minimum requirement for x years service completed within the last Y years but with at least 2 of the 5 years being immediately prior to consideration for eligibility?
- Should there be a requirement to be a current licence holder?

### **3.2 Existing/ previous hackney carriage proprietor's licence holders**

There are existing and previous holders of hackney carriage proprietors' licences some of whom will have obtained the licences via transfer (i.e. not a free plate). Such licence holders have chosen to pay substantial sums of money for the transfer of these licences (current value estimated at £50,000).

Hackney Carriage proprietors' licences are issued under legislation that is over 150 years old. Council records are incomplete and we do not hold a full record of each and every proprietor's licence originally issued by the Council.

### **Members need to determine**

- Should an individual previously allocated a hackney carriage proprietor's

licence by the Council (free plate) be considered eligible for a further hackney carriage proprietor's licence issued by the Council?

- Should a previous hackney carriage proprietor who obtained his/ her licence(s) via transfer from a previous owner be considered eligible for consideration of a hackney carriage proprietor's licence issued by the Council?
- Should a current hackney carriage proprietor who obtained his/ her licence(s) via transfer from a previous owner be considered eligible for consideration of a hackney carriage proprietor's licence issued by the Council?
- At any point of allocation of hackney carriage proprietors' licences should individuals be required to provide a statutory declaration regarding previous licences held?

### **3.3 Compliance with the Council's Policy on the relevance of convictions**

The trade consultation showed strong support for this being utilised as a criterion for the allocation of licences. Overall 1201 (75.6%) trade respondents supported this being used as one of the eligibility criteria whilst 361 (22.7%) trade respondents were against this being used as an eligibility criterion.

The inclusion of this as an eligibility criterion could be seen as a means of encouraging good conduct within the trade.

However, members are also aware that within the policy it does specify that each application will be dealt with on its own merit. The automatic exclusion from eligibility of an individual who falls within the policy may conflict with the rules of natural justice. However any individual aggrieved by such an approach may wish to utilise the special consideration policy outlined below in this report.

However, members should also be aware that if hackney carriage proprietors' licences are to be allocated only to current licensed drivers, those individuals have already been deemed fit and proper to hold a driver's licence by the City Council, it may be difficult to consider how a person who is fit and proper to be a licensed driver may be considered unsuitable to be a proprietor based on criminal or motoring convictions, specifically when the legislation does not make any requirement for a licensed proprietor to be fit and proper.

#### **Members need to determine**

- If consideration is given to allocating hackney carriage proprietors' licences to anyone other than a current licensed driver, should there be a requirement for an unlicensed person to comply with the Council's Policy on the relevance of convictions?

### **3.4 History of complaints**

The consultation exercise demonstrated strong support amongst the licensed trade

for complaint history to be taken into consideration when determining the allocation of hackney carriage proprietors' licences. 1231 (77.5%) respondents supported this being considered as one of the eligibility criteria whilst 341 (21.5%) respondents did not.

The difficulties associated with this are:

Where licence holders have been issued with a warning by either officers or sub committees regarding their conduct they have no right of appeal against the warning.

Where licence holders have had their licences suspended or revoked by officers or Sub Committee they do have a right of appeal against that decision.

It could therefore be considered transparent that any suspension / revocation of any Council issued proprietor's licence not subsequently overturned on appeal should prevent an individual from being eligible for consideration of a hackney carriage proprietor's licence.

Members may also wish to consider where an individual has had a proprietor's licence suspended or revoked but can then demonstrate that they have subsequently held a further proprietor's licence without any additional suspension or revocations for a fixed period (timescales to be determined), the previous suspension / revocation would normally be disregarded.

Members should have regard to the situation that arose in 2008 whereby 34 hackney carriage proprietors' licences were suspended by council officers due to fire safety concerns associated with a vehicle design issue. Therefore any consideration of suspensions / revocations as relevant service history would need to exempt suspensions / revocations that were completely outside the control of the licence holder.

Members also need to be aware that as part of the vehicle test procedure, vehicles failing on anything other than minor fail items are formally suspended.

#### **Members need to determine**

- Should proprietors' licences suspended or revoked by the Council be considered as a criterion for excluding eligibility in the allocation of hackney carriage proprietors' licences?
- If so should an exception be applied where a licensed proprietor can demonstrate a fixed period ( to be determined) as a licensed proprietor without the imposition of any further suspensions/ revocations of a proprietor's licence?

#### **4.0 Vehicle specification policy in respect of new issue hackney carriage proprietors' licences.**

- 4.1 The Council has a general policy in place that requires all hackney carriage vehicles to be of a type that has been approved by the Public Carriage Office

(PCO). In addition there is an age limit policy in place which in general terms allows a vehicle to be licensed up to 10 years of age from date of first registration (extending to 12 years of age if the vehicle is Euro III compliant in terms of emission levels).

- 4.2 The previous allocation method for hackney carriage proprietors' licences was via a waiting list. This Policy was implemented following a report to the Licensing and Appeals Committee in Oct 2005. As part of the allocation process, new proprietors were required to provide a vehicle which was Euro III compliant. The TX2 manufactured from January 2002 was the first LTI vehicle manufactured to the Euro III standard and therefore in effect this meant that any vehicle associated with a newly issued proprietor's licence in 2006 had to be 4 years old or less. In subsequent years this policy allowed older vehicles to be licensed as newly issued hackney carriage proprietors' licences, e.g. by 2008 Manchester's Policy facilitated new licences to be issued in respect of vehicles that were 6 years of age (i.e. 2002-2008).
- 4.3 The Licensing unit compiles detailed results of vehicle test statistics, including the average number of fail items associated with the age of vehicles. Appendix 1 attached shows data in respect of the age of hackney carriage vehicles and the average number of fail items. Clearly the general trend shows that the newer vehicles generally have a lower number of faults identified at vehicle test. This then provides the evidential basis in support of a policy requiring newer vehicles at point of first licence (clearly such data would also be useful for determining general age policy requirements).
- 4.4 The hackney carriage consultation exercise showed mixed trade support for an age policy in respect of newly licensed hackney carriage vehicles. The statistics are shown in the table below:-

Question		Options	Responses	
			Nos	%
4a:	Should there be a change in the current age for a newly licensed hackney carriage vehicle.	Yes	633	39.9
		No	941	59.3
4b:	If you have answered YES, what age do you think a newly licensed vehicle should be?	Brand new	183	11.5
		No more than 1 year old	57	3.6
		No more than 2 years old	65	4.1
		No more than 3 years old	120	7.6
		No more than 4 years old	282	17.8

#### Members need to determine

- Should any hackney carriage proprietors' licences require the vehicle to conform with current Council Policy in respect of vehicle type?

- In respect of new issue hackney carriage proprietors' licences should an additional age limit for a newly issued licence be imposed?

if so

- What is an appropriate age limit for a new issue hackney carriage proprietors' licences?

## **5.0 Special Consideration Policy**

- 5.1 The Council needs to be transparent in the way in which hackney carriage proprietors' licences are issued.
- 5.2 This report together with previous reports have highlighted the issues associated with the development of a revised policy, and the need to ensure that any such policy provides equal opportunities to all relevant parties.
- 5.3 A special consideration policy is required to provide a means by which any individual who fails to meet the eligibility criteria can make representation to the City Council to have his/ her circumstances considered outside of the policy.
- 5.4 A draft Special Consideration Policy is included at Appendix 2 of this report.
- 5.5 A further issue to consider is how any individual deemed to meet the special consideration policy should be treated in terms of each of the options for means of allocation. In respect of a lottery it would appear to be fairly clear i.e. that the individual would be entered into the lottery despite not meeting the entry criteria. This then means that the individual concerned would have the same chance of being awarded a licence as any individual who met the eligibility criteria. In the event of a waiting list or ranked priority being determined as the means of allocation, it becomes less clear, how you determine where any individual being granted special consideration be added within a list of possibly 1000+ other eligible individuals.

### **Members need to determine**

- Whether to support the draft Special Consideration Policy at Appendix 2 with or without amendments.
- How any special consideration policy would be applied in respect of each of the 3 options for means of allocation of licences

## **6.0 Key Policies and Considerations**

### **(a) Equal Opportunities Policy**

Any criteria used to allocate hackney carriage proprietors' licences must not impact disparately on any applicant irrespective of their gender, disability, age or ethnicity.

The revised policy to be implemented regarding the allocation of hackney carriage vehicle proprietors' licences must ensure that any provision, criteria or practice is not discriminatory.

Any policy in respect of allocation of hackney carriage proprietors' licences by a process of managed growth is by its nature selective. Any such policy would therefore be required to undergo an Equalities Impact Assessment before adoption by the Council.

The results of the Equality Impact Assessment will be included in the report to the Licensing and Appeals Committee.

**(b) Risk Management**

The City Council must have a justifiable reason for whatever criteria are chosen. The policy could be judicially reviewed by someone who doesn't meet the criteria and believes that they can evidence the criteria are unreasonable.

Whatever criteria are recommended by the sub committee will be subject to an Equalities Impact Assessment . This assessment may determine that some of the criteria proposed by the sub committee would be discriminatory in which case they could not be included in the policy

**(c) Legal Considerations**

The legal implications associated with the establishment of a policy in respect of the allocation of hackney carriage proprietors' licences is as outlined in the report to the Licensing and Appeals Committee on 23 November 2009.

<b>HACKNEY CARRIAGE VEHICLE FAULTS JANUARY 2009 - DECEMBER 2009</b>					
<b>Age (Yrs)</b>	<b>Major Faults</b>	<b>Minor Faults</b>	<b>Total Faults</b>	<b>Total Vehicles</b>	<b>Average Faults/ Vehicle</b>
0	1	4	5	5	1.0
2	120	25	145	60	2.4
4	246	46	292	101	2.9
6	246	77	323	116	2.8
8	597	155	752	191	3.9
10	520	139	659	129	5.1
12	22	12	34	6	5.7

Please note this data has been collated from the vehicle tests undertaken at the Councils Hammerstone Rd depot. The vehicle tests are undertaken as part of licensing requirements.

## **DRAFT**

### **Special Consideration Policy**

#### **Allocation of Hackney Carriage Proprietor's Licences**

The City Council has specified criteria which individuals would be expected to meet before being eligible for consideration for a hackney carriage proprietor's licence.

The City Council recognises that there may be limited circumstances where an individual may be unable to meet the eligibility criteria but that he/ she feels that their circumstances should receive special consideration by the Council.

Any individual who wishes to be considered under this policy should in the first instance forward a written submission to the Licensing Unit Manager outlining why they should be given special consideration. Independent evidence must be provided to support the special consideration claimed.

Further guidance and information will be provided once the allocation policy has been finalised

February 2010.