

Consultation Response Summary

Revision of Torbay Council's Hackney Carriage and Private Hire Licensing Policy

In all there was an overwhelming response to the consultation with 239 returns in total.

These returns were made up from, a total of 213 questionnaires, a separate response from the Torbay Taxi Association (TPHA), 23 additional copies of the TPHA response being returned and signed by non-association members and 3 additional letters from respondents who chose not to use the prepared questionnaire. It is not known how many, if any, of the 23 additional copies of the TPHA representation are from people who also submitted a consultation questionnaire.

These results are summarised below and where necessary or appropriate, a revised proposal in the Policy is suggested in consideration of the responses received.

Reasons are provided where either an alteration is recommended to the original draft Policy or where it is proposed that no alteration should be made, despite consultation responses to the contrary.

Torbay Licensed Taxi and Private Hire Association

The response from the TPHA generally relates to the consultation questionnaire and are covered in more detail under the respective headings below. However, some comments relate to other areas of the Policy and these are addressed as follows:

The condition below with regard to Hackney Carriage Roof Signs was retained in the draft Policy, though the intention had been to remove it because the condition renders it difficult to determine that the vehicle is a Hackney Carriage, which is unlawful. Although the TPHA would like to retain this condition, it has been removed for the reasons given below.

This was in appendix D to the Policy under the heading 'Roof Signs', on page 56:

'The roof sign may be removed while the vehicle is being used in connection with a funeral or a wedding'

The reason for requiring removal of this section of the Policy, is that by condition, a roof sign is a requirement with regard to any Torbay Hackney Carriage vehicle. A Hackney Carriage remains a Hackney Carriage at all times, regardless of the use that the vehicle is being put to at any given time (the same position applies to Private Hire vehicles). This was a ruling that was established in *Benson v Boyce [1997] RTR 226*.

As a consequence of *Benson v Boyce*, a licensed vehicle should be identifiable as a licensed vehicle at all times, whether being used for hire or reward or otherwise. This is a clarity that is also required for enforcement and compliance reasons.

No Policy may permit or seek to permit any activity that is unlawful. Therefore this aspect of the Policy has been removed.

Paragraph 2.6

The TPHA raise some queries with regard to this paragraph and what the Council's intentions are? This is an existing part of the Policy and remains unaltered from that as published in 2013, see below. The whole section relates to future environmental objectives for the Licensing Authority in carrying out the 'Taxi' function and any alterations to Policy or fees that may arise from new processes under this section would not be conducted outside of a Committee process.

'To Encourage Environmental Sustainability:

- *Investigate alternative fuels and conversion systems;*
- *Investigate the potential for providing an environmental levy or reducing licence fees for cleaner vehicles;*
- *Involve Taxi Trade in identifying ways to reduce vehicle emissions;*
- *Consideration of suitability of vehicles that are unable to comply with Euro Technology (or equivalent standard) requirements.'*

Recommendation A:

That paragraph 2.6 should remain unaltered.

Paragraph 2.8

The TPHA have requested that notice is taken of this paragraph, repeated below. This policy is produced following due consideration of the legislation, best practice guidance, case law and experience of administration of the 'Taxi' function over time. The prime objective of the licensing function is the promotion of public safety, no alterations are proposed where it is not considered that it is appropriate to do so for safety or compliance reasons. In particular, any proposal that carries with it an associated expense to the licence holder has not been proposed without full consideration of the need/benefit over cost.

'The Licensing Authority is aware that applying licensing requirements which are unduly stringent may unreasonably restrict the supply of taxi and Private Hire services, and can lead to negative safety implications. Therefore, the Licensing Authority has considered each of its licensing requirements in relation to the proportion of risk it aims to address.'

No recommendation as this response merely requests that notice is taken of this section of the Policy.

Paragraphs 14.12 to 14.14

These again are paragraphs that are already written into the 2013 version of the Policy, albeit, paragraph 14.14 has been expanded slightly to include inspection of the vehicle and removal of the vehicle plate whilst the suspension remains in force.

The TPHA appear to be against formal inspection of the vehicle following repair, in circumstances where it has been deemed unfit (or potentially unfit) by a Licensing Officer, preferring instead that the Officer declares the vehicle fit for service. The key point here is that although an Officer may pick out obvious areas of concern e.g. accident damage, worn tyres etc, Officers are not trained mechanics. There may be hidden defects that only a trained mechanic can identify.

The emphasis with regard to paragraph 14.14, should be placed on the word 'may', this is because there will clearly be occasions where damage e.g. a worn tyre is obvious and once replaced can clearly be seen to have been rectified. In such cases a degree of discretion may come into play and the vehicle may be deemed fit without need for a full inspection.

'14.12 The vehicle will be inspected by an Authorised Officer and a decision made as to whether or not the vehicle is in such condition to continue in service.'

14.13 If any damage to the vehicle is such that the Authorised Officer considers it to be in a safe condition to continue in service, the vehicle shall be permitted to remain in continued service but the identified repairs must be undertaken within a maximum of 28 days of the damage occurring. Failure to do so may result in the vehicle licence being suspended until such time that the permanent repairs have been undertaken.

14.14 If any damage is considered by an Authorised Officer to be extensive enough to affect the safety or general appearance of the vehicle, the vehicle plate shall be removed and the proprietor of that vehicle shall immediately remove the vehicle from service. The vehicle must be repaired and may be required to undergo a full vehicle examination at the/an approved testing station, as authorised for the purpose of such inspection(s) by the Licensing Authority, before the plate is re-affixed and the vehicle returned to service. Such inspection will be at the expense of the vehicle proprietor.'

Recommendation B

That paragraphs 14.12 to 14.14 should remain unaltered

Paragraph 14.29

This paragraph states: 'Failure to present the vehicle for inspection will result in the vehicle licence being immediately suspended'. The TPHA have requested that the section includes a timescale.

Upon consideration it makes sense that this section is clarified as the current wording may appear vague.

Recommendation C:

That paragraph 14.29 should be amended to read:

Failure to present the vehicle for inspection by the due inspection date, will result in the vehicle licence being immediately suspended until such time as the inspection has been undertaken, a satisfactory pass certificate presented to the Licensing Authority and written confirmation that the suspension has been lifted is received from the Licensing Authority.

Guide Dogs for the Blind Association

Guide Dogs provides mobility services to increase the independence of people with sight loss in the UK and campaigns to break down physical and legal barriers to enable people with sight loss to get around on their own terms. Current estimates suggest about 32,140 people with vision impairments are living in Devon, of which about 137 are guide dog owners.

The Guide dogs association have responded to the consultation making some recommendations.

- The policy should specify that all taxi and PHV drivers must undertake disability equality training, which includes information regarding the carriage of assistance dogs and their obligations under the Equality Act 2010.
- The policy should specify a medical exemption certificate for carrying assistance dogs will only be issued when authorised by a medical practitioner and accompanied by medical evidence, such as a blood test, a skin prick test or clinical history.
- Torbay Council Licensing Authority should issue medical exemption certificates that are accompanied by features distinguishable to vision-impaired passengers, such as an embossed or raised 'E'.
- The policy should state that the Torbay Council Licensing Authority will work together in conjunction with assistance dog owners to ensure that licensing requirements are being complied with by various means such as, but not limited to, test purchases to ensure that licensing requirements are being complied with.
- The policy should state that Torbay Council Licensing Authority will use its best endeavours to investigate all reported violations of the Act in a timely manner with a view to pursuing a conviction, and that breach of the Equality Act is deemed serious and therefore will result in suspension or revocation of licence.

With regard to Disability Awareness, the Policy is already clear as to the requirements in this regard and the duties of all drivers are emphasised in paragraphs 14.21 and 14.22 of the policy, which state:

14.16 Licensed drivers are under a duty to carry, free of charge, any guide, hearing and other assistance dogs travelling with a disabled person. Since 31 March 2004, a similar duty has applied to the drivers of licensed Private Hire vehicles. In addition, Private Hire vehicle operators will be under a duty to accept a booking made by, or on behalf of a disabled person and shall not be permitted to make an additional charge for carrying an assistance dog. Any driver (aside from those holding a Notice of Exemption), who fails to comply with this duty, could be prosecuted and may be liable to a fine not exceeding Level 3.

14.17 If it is brought to the attention of the Licensing Authority, by way of a complaint or any other method, that a driver breaches the duty which is outlined in Paragraphs 14.21 and 14.22 above, the Licensing Authority may, in addition to any prosecution, seek to suspend or revoke the drivers licence.

Any report of a driver failing to comply with this duty will be taken seriously and where evidence exists this will result in being made to explain actions to a Licensing subcommittee and/or in prosecution.

A future aspiration could be to look at adding a requirement at entry level for all new drivers seeking to be licensed that they must first undertake Disability Awareness Training, however, whilst by no means demeaning the importance of this matter, there are already a number of requirements, such as Child Sexual Exploitation (CSE) Awareness training and Driving Standards Assessment, bestowed upon all new drivers. The cost to applicants therefore, of a further requirement needs to be assessed against the necessity of that requirement.

As part of the Knowledge Test, all drivers are made aware particularly of their responsibilities with regard to the Equalities Act, with the relevant sections of the Policy highlighted to them and an emphasis placed on the consequences of non-compliance. **It is therefore not recommended that Disability Awareness Training is made a requirement at this time.**

Section 5.26 of the Policy already states that only under specific circumstances will an exemption certificate be awarded. This is acknowledged and welcomed in the Association's response. They do advocate specification as to what evidence may be acceptable and in view of this it is recommended that the paragraph be amended slightly to read:

5.15 *Exemption from carrying guide, hearing and certain other assistance dogs which accompany disabled persons, can only be sought on strict medical grounds. Therefore, applicants will need to clearly demonstrate the grounds for applying this exemption by providing medical evidence to the Licensing Authority, such as a blood test, a skin prick test or clinical history and a signed letter from their registered GP and/or relevant medical specialist. All costs in obtaining this exemption shall be borne by the licensed driver.*

An embossed or raised E on exemption certificates is more of an operational rather than Policy issue. The Policy already states at 5.28 that certificates are issued and the Licensing team will therefore work with the Association to look at whether such certificates are a possibility.

It is difficult to see how test purchasing may work in reality particularly as whilst there have been some complaints, this has not proven to be a major issue in Torbay. This stated, the Licensing team will work with any complainant under the terms of its Enforcement Policy and will take very seriously any unlawful refusal under the Equalities Act. **This may include potential for test purchasing although it is not seen as necessary to add that to the Policy.**

Recommendation D:

That paragraph 5.26 of the Policy be amended as indicated above.

Consultation Questionnaire Reponses

What follows below are the responses to the consultation questionnaire. These were all considered to be significant amendments to the policy and warranted individual questions and responses. Any view expressed by the TPHA has also been addressed under the relevant amendment below.

Driver Knowledge and Proficiency (5.10 to 5.20)

Amendment 1:

A new paragraph has been added at 5.14 to require a driver to appear before Licensing Committee should they receive more than 9 penalty points that are current at any one time.

Question 1: How strongly do you agree with the above action being taken?

Response:

Strongly agree	50	23.5%
Agree	98	46.0%
Neither agree nor disagree	24	11.3%
Disagree	19	8.9%
Strongly disagree	18	8.5%
No response	4	1.9%
Total	213	100%

In total 69.5% of respondents agreed with this proposal, with a further 11.3% being of no firm opinion.

In many cases comments were included in the text of the questionnaire, the vast majority being in support of the recommended move to require offending drivers to appear before committee. Reasons given related to passenger or public safety, driver professionalism and potential need for re-training.

Of those that disagreed, where a comment was made, these related to concerns that mitigating factors may come into play in relation to points received, that the Licensing Authority should not have stricter rules than the DVLA, concerns that a job may be lost over minor offences and one response that suggested it should be a matter for the Courts.

Clearly there is overwhelming support for requiring a driver to appear before Licensing Committee for repeat offences. The concerns raised, are ignoring the fact that as a professional driver, charged with passenger safety, there are higher standards to be expected. Any mitigating factors are considered by a Licensing Committee, with an appeal to the Courts if aggrieved by a decision.

Question 1a: Do you think that 10 penalty points is the correct number?

Response:

Yes	123	57.7%
No	45	21.1%
Don't know	31	14.6%
No response	14	6.6%
Total	213	100%

A total of 57.7% of respondents agree that the proposed number of penalty points is set at the correct level, with a further 14.6% being of no firm opinion. There is a mix in the comments for those believing that the level is wrong, between the level being too high or too low.

The Licensing Authority is tasked with ensuring the safety of the travelling public and is permitted in law to set reasonable conditions. Any driver that obtains more than 9 penalty points has in effect receive more than three standard motoring convictions. The majority of responses being positive to this proposal, would give credence to a view that such a level being levied against a 'professional' driver is unreasonable and should as a consequence be brought before Committee for explanation and action as may be considered appropriate in each case.

Recommendation E:

It is recommended that the agreed consultation draft Policy to require a driver to appear before Licensing Committee should they receive more than nine penalty points be retained as previously agreed.

Amendment 2:

New paragraphs added at 5.17 to 5.19 requiring a driver to undertake Child Sexual Exploitation (CSE) training. This will apply to all existing drivers by May 2019 and new drivers within 6 months of the grant of a licence.

Question 2: Do you think the timelines proposed for CSE training are realistic?

Response:

Yes	154	72.3%
No	23	10.8%
Don't know	31	14.6%
No response	5	2.3%
Total	213	100%

Only just over 10% of respondents considered that the timelines were not realistic. Interestingly, these are, with only a few exceptions, not against the CSE proposals. The majority of those that do not consider the timelines to be realistic, believe that the timeframe should be shorter or that it should be a prerequisite to obtaining a licence.

Consideration was initially given to a shorter timeframe or whether it could become a pre-licensing requirement to undertake a CSE course as part of consideration of the draft document. However, this is specialist training that is not widely available and therefore, it was considered appropriate to allow some time for drivers to book on and successfully undertake a relevant course.

Recommendation F:

It is recommended that the timeframes relating to CSE training remain at 6 months as outlined in the draft Policy.

DVLA Driving Licence Checks (12.1 and 12.2)

Amendment 3:

Licensed drivers are in a position of responsibility with regard to the safety of the passengers they convey. Whilst the majority of drivers are recognised as being safe and responsible, there are occasionally some who do not inform the Licensing Authority when endorsements are received. Therefore, it is proposed that the process of checking for traffic offences and licence endorsements by the Licensing Authority be tightened from 'where considered necessary' to 'every 6 months'.

Question 3: How strongly do you agree with the offence and endorsement change from 'where necessary' to 'every 6 months'?

Response:

Strongly agree	50	23.5%
Agree	78	36.6%
Neither agree nor disagree	49	23.0%
Disagree	24	11.3%
Strongly disagree	9	4.2%
No response	3	1.4%
Total	213	100%

With only 15.5% of respondents being against this proposal, there is seemingly strong support for it. Whilst the vast majority of Torbay licensed drivers are good drivers who take their responsibilities seriously, there have been a few occasions, where it has only been by checking a driver's record with the DVLA, that offences have been highlighted. It is a condition of licence that offences are reported to the Licensing Authority, however, evidence from some of these checks would indicate that in isolated cases, this does not happen.

There is a disciplinary process available for situations where a driver has failed to inform the Licensing Authority of a conviction for a motoring offence and this has been pointed out in comments from some of those that are opposed to the change. However, unless these checks are made, a considerable length of time may pass before detection and even though such cases are relatively rare, this presents potential for a risk to the public and therefore regular checks will assist in addressing this problem.

It is clear from the responses that the majority of Torbay drivers are not adverse to these checks being undertaken more frequently, albeit some are concerned that the drivers may be asked to pay for the additional checks. There is no cost to access the data base and therefore the only costs associated with this work will be officer time. As this amounts to only one extra occasion per driver per year, this cost is not significant and would be covered under existing budgets.

Of those drivers that have indicated they agree or strongly agree with the proposal (60.1% in total), many have indicated that it is necessary for public safety, with some stating that drivers would not be concerned if they have nothing to hide.

Recommendation G:

That Members' agree to the proposal for DVLA licence checks on all drivers to be undertaken every six months to be included as consulted, in the final published Policy.

Conduct of Drivers (13.1 and Appendix B)

Amendment 4:

The current Policy at paragraph 13.1 refers to **Appendix B**, which lists a number of points of advice for drivers. This has been removed and replaced with a complete new Code of Conduct. A new Code of Conduct reinforces the driver conditions to ensure that the generally high standards maintained by the majority of Torbay licensed drivers are adhered to by all.

Question 4: Please tell us your thoughts on the new Code of Conduct.

Response:

Of all the responses received, a total of 103 respondents commented in this section. This represents just over 48% of the total number of representations received.

Of the 103 comments 22 commented 'don't know' and 22 simply stated 'no' without providing any further comment as to why they are against it. This leaves 59 other comments all of which were positive, citing a need for high driver standards and the importance of professional conduct.

A few of the respondents were keen to see better enforcement of the Code. One of the issues with the 2013 Policy was that the 'rules for drivers' were more advisory and in some cases were not fully understood. Given the comments and in consideration of the assistance that the new Code will provide with regard to setting of clear rules and guidance as well as facilitating enforcement of the standards, this is seen as a positive change.

Recommendation H:

That the new Code of Conduct at Appendix B to the Policy be included as consulted.

Specification and Conditions (14.2 to 14.6)

Amendment 5a:

The maximum age of a licensed vehicle (once licensed) has been increased from 8 years to 10 years subject to suitability.

The Licensing Authority believes that the increase to the maximum age of vehicles reflects the improving standards of manufacture and longevity of vehicles over recent years.

Question 5a – How strongly do you agree with the maximum age of a licensed vehicle being extended to 10 years?

Response:

Strongly agree	103	48.4%
Agree	82	38.5%
Neither agree nor disagree	21	9.9%
Disagree	1	0.5%
Strongly disagree	3	1.4%
No response	3	1.4%
Total	213	100%

The standard and quality of all production vehicles has improved over the years as new technology has been developed. Generally 8 to 10 year old vehicles are of a higher standard today than even 5 years ago when this Policy was last revised. There is no reason to believe therefore, that a licensed vehicle, if looked after, should not have a working life beyond the 8 years currently permitted under the Policy.

The view relating to the quality of modern vehicles is reflected in the above response, where some 86.9% of respondents agree with extending the maximum permitted age to 10 years. Whilst this represents a relaxation of the rules and is not suggested for any safety reason, it is unreasonable to ask a driver to replace a perfectly good vehicle, which may come at unnecessary considerable cost.

The TPHA have responded on this point and are fully in agreement with the increase in maximum age of a vehicle from 8 years to 10 years. They have stipulated that at 14.7 (and other areas within the Policy), where this is provision to seek an extension beyond the maximum age limit for vehicles that are in 'exceptional' condition, that 'exceptional condition' should be defined. However, this is deliberately not defined as it is to some degree subjective and would depend upon the individual merits of any application to the Licensing Committee at any given time.

Recommendation I:

It is recommended that Members agree to increase the maximum age limit of a licensed vehicle to 10 years instead of 8, as consulted.

Amendment 5b:

The maximum age of a vehicle (when first presented for licensing) has been left at 4 years, however, the maximum mileage when first presented for licensing has been reduced from 60,000 to 50,000.

Question 5b: Please indicate whether you agree or disagree with this change.

Strongly agree	50	23.5%
Agree	71	33.3%
Neither agree nor disagree	32	15.0%
Disagree	26	12.2%
Strongly disagree	25	11.7%
No response	9	4.2%
Total	213	100%

The majority of respondents are in agreement with this alteration, albeit the support is lower than the support for the increase in permitted age, with 56.8% either in agreement or strong agreement. However, only 23.9% of those who completed the questionnaire are against the proposal, with an even split between disagree and strongly disagree.

The TPHA has indicated that they are opposed to this change, considering it to be arbitrary and as long as the vehicle is in sound mechanical condition, the mileage shouldn't matter at all. A view that is supported by 23 additional submissions of the TPHA.

The increase in permitted age for a licensed vehicle reflects improvements in longevity over recent years, however, the lowering of the maximum mileage limit at first being presented for licensing is not arbitrary as it has been suggested following careful consideration.

On average (according to statistics from the Department of Transport and RAC) a private vehicle is parked for 96% of the time with a life span of 7.8 years. The average annual mileage of a private vehicle has dropped from just under 10,000 miles in 2002 to 7,800 in 2017. This means that the average mileage of a 4 year old vehicle would be in the region of 32,000 when purchased.

A licensed vehicle covers many more miles than a private vehicle during the course of its lifetime. Whilst statistics are not as freely available with regard to 'taxi' mileage, a survey of 'taxi' drivers by Insuretaxi.com, conducted in 2016 identified a minimum average mileage of 20,000 per annum nationally, with this being significantly higher in some cases. The same survey identified the South West as being third highest of all regions nationally with an average of approximately 27,000 miles per annum.

As a vehicle ages, the deterioration in parts can bring about an increase in pollutants. This stated, with modern vehicles, the impact is becoming less and the Euro 6 standard on new vehicles is high. However, the mileage reduction will assist in ensuring that there is a very high standard at first licensing and will more than be balanced by the increase in permitted maximum age of a vehicle once licensed.

Recommendation J:

It is recommended that the reduction to 50,000 miles as a maximum for all vehicles when first presented for licensing should be implemented into the revised Policy.

Vehicle Compliance Testing (14.23 to 14.28)

Amendment 6:

Compliance testing has been introduced as a requirement to ensure that all vehicles are checked to include assessment of mechanical condition, compliance with licence conditions and suitability to be (or to continue to be) licensed, when first presented for licensing and at each renewal of the vehicle licence.

In addition to the annual test at renewal, each and every vehicle that has reached 8 years of age or more will be required to undergo a second compliance test, approximately 6 months from the date of renewal.

A Tendering process will be conducted to establish a contractor(s) who may be able to deliver such tests on behalf of the Licensing Authority.

Question 6: How strongly do you agree with the above proposal?

Strongly agree	23	10.8%
Agree	68	31.9%
Neither agree nor disagree	44	20.7%
Disagree	44	20.7%
Strongly disagree	30	14.1%
No response	4	1.9%
Total	213	100%

The response with regard to vehicle testing is more balanced with 42.7% in favour, 34.8% against and 20.7% holding no firm opinion from those that responded to the consultation questionnaire.

The TPHA have responded that they do not believe that a compliance test should be necessary if the vehicle has just had an MOT and that this is therefore a 'restrictive' and unnecessary expense.

The TPHA have also objected to paragraph 14.27 of the draft Policy, which provides that the Licensing Authority may request that a vehicle is submitted for a compliance test when there is doubt as to its suitability. This however, is currently in the 2013 Policy and as such has been included for the last 5 years. This is a safeguard to ensure public safety, where an officer who (as above stated) is not a mechanic or expert in vehicle examination, may ensure the safety of a vehicle, following an accident or major repair, for example.

Given the balance of agreement or otherwise within the consultation responses, there is understandably a balance in comments received. Of the 213 respondents to the questionnaire, some 117 comments were recorded.

Of the comments in favour, these covered matters such as 'it will ensure suitability of vehicles', 'it will maintain high standards', 'ensures the safety of passengers' and it will 'find out those that do not notify the Licensing Authority of a problem or accident'.

Those comments against, stated matters such as, 'cumbersome and time consuming', 'MOT should be sufficient', 'why change something that works and incur extra cost' and 'an exercise in flexing local government muscle to justify a locally held or individually held opinion'.

Whilst local Policy, should reflect what is necessary, rather than simply mirror national practice, Torbay, is in a vast minority of Licensing Authority areas where compliance testing is not currently standard practice. In an industry where Public Safety is the primary consideration it is essential that when licensing a vehicle, the Licensing Authority has full confidence that the vehicle is safe.

Clearly, the annual MOT provides a degree of confidence, however, as previously stated a licensed vehicle potentially covers something in the region of 4 to 5 times the national average mileage of a private/family vehicle, thus depreciation and degradation of both mechanics and body of these vehicles is accelerated. This means that the life span of an MOT is not as reliable with regard to a licensed vehicle as it would be with a private vehicle.

In addition to above, the compliance test will go above and beyond the checks made as part of the MOT, whilst it will cover all areas that an MOT covers, it will look at bodywork and other moving parts as well as checking on compliance with condition of licence etc.

It would only take one major accident, where the vehicle is found to have been faulty, for the Licensing Authority to come under scrutiny if such compliance tests are not implemented, particularly as the government's own Best Practice Guidance recognises the need for compliance testing.

Implementation of the scheme, cannot occur overnight as the criteria requires developing and a procurement process must be initiated in order to find suitable provider(s). It is therefore proposed that compliance testing as stated in the draft Policy be agreed for inclusion, however, that the implementation date is delayed until the procurement process has been completed with a view to being brought in on the 1st May 2019.

Recommendation K:

That compliance testing be introduced as outlined in the draft Policy, effective from 1st May 2019, following a procurement process and appointment of suitable test provider(s).

Door Signs (14.39 to 14.42)

Amendment 7:

It is proposed that all licensed Hackney Carriage and Private Hire Vehicles will be fitted with identifying door signs.

In the case of a Private Hire Vehicle, the door signs will contain clear indication that it is a vehicle that is licensed by Torbay i.e. the Torbay logo, the unique licence number of the vehicle and a statement to the effect that the vehicle must be pre-booked.

In the case of a Hackney Carriage vehicle, the door signs will contain clear indication that it is a vehicle that is licensed by Torbay i.e. the Torbay logo, the unique licence number of that vehicle and wording to identify it as a Hackney Carriage i.e. 'licensed Hackney Carriage'.

In all cases, door signs will be required to be permanently affixed to the vehicle on a vinyl sticker and not on magnets.

Question 7: How strongly do you agree with the proposal to fit door signs?

Strongly agree	22	10.3%
Agree	40	18.8%
Neither agree nor disagree	28	13.1%
Disagree	39	18.3%
Strongly disagree	82	38.5%
No response	2	0.9%
Total	213	100%

The response to this section of the Policy has been negative with only 29.1% of respondents to the survey being in favour of the proposal and a further 13.1% being of no opinion. In total over half of respondents (56.8%) are against door signs being required on licensed vehicles.

In total 135 of those that responded to the questionnaire have entered a comment. Comments in favour include, 'much better than having the boot and bonnet sprayed yellow', 'good idea', 'easy identification by the public' and 'it may be a way forward for public safety'. Concerns against include, 'may be a problem for resale', 'need to be removed for weddings and funerals', 'unnecessary cost, the rear plate is enough' and 'it's important for identification of a Hackney Carriage but not so important for Private Hire'.

The TPHA have indicated that they believe the permanent fixing of door signs would be restrictive to trade as customers sometimes want discretion in an unmarked vehicle. They do however, accept that Torbay has an issue with people advertising 'lifts for money' on Facebook, which has been a problem from time to time. The TPHA are also concerned that vinyl stickers will damage the paintwork of the vehicles and potentially affect the resale value.

There is a clear distinction between Hackney Carriage and Private Hire Vehicles, both effectively serve different markets and are generally hired in different ways (albeit a Hackney Carriage can operate as a Private Hire Vehicle). It is true that the general public do not always understand the difference and it is therefore, planned that there should be some publicity around this. Publicity will specify the difference between vehicle types as well as clarity as to how each may be identified and hired.

Despite one of the comments in this section being to the contrary, it is potentially of greater importance that Private Hire Vehicles should be fitted with permanent door signs. This is recognised in the Department of Transport best Practice Guidance, where it states:

'Members of the public can often confuse PHVs with taxis, failing to realise that PHVs are not available for immediate hire and that a PHV driver cannot be hailed. So it is important to distinguish between the two types of vehicle'...

Amongst the possible approaches it lists a licence condition which requires a sign on the vehicle in a specified form, which will often be of specific shape and size, identifying the Licensing Authority and containing words such as 'pre booked only' as being examples of good practice.

At all times, but particularly late at night, there is a safeguarding issue, where it should be clearly evident that a vehicle is a Torbay licensed vehicle. PHV's do not have roof lights and look to all intents and purposes like any other car. Whilst many operators have their own logo and signage, this is not a uniform signage that will identify the vehicle as licensed by Torbay. The rear plate is not always immediately visible and better identification will therefore assist with passenger security.

It has already been determined that there are people who try to pass themselves off as a 'taxi' e.g. on Facebook and offering services for reward. This is not only illegal but is a safety risk both in terms of the vehicles and drivers being totally un-vetted. It is also unlikely that in the event of an accident these vehicles would be insured as all standard insurance policies do not permit hire or reward. Whilst efforts are made to track down these offenders, it is not easy to do unless they are witnessed picking up or carrying passengers. Education of the public through social media and the press, combined with clear door signs at all times, will assist in ensuring that there is better awareness of 'no door sign, not a legitimate licensed vehicle'.

Hackney Carriages do have roof signs and are therefore more visible and identifiable, however, whilst Torbay does not specifically have an issue at present with out of Town Taxis operating in the area, it is not out of the question that this could occur. Whilst a livery policy will assist with better identification (not relying simply on rear plate and roof light), if introduced such a policy will not be fully incorporated for some years given that it will only apply once vehicles are replaced for any reason. Aside from the roof light therefore, many Hackney Carriages (similar to Private Hire) look very much like any other car.

Concern has been raised that vinyl door stickers will damage paintwork and devalue the vehicle, however, research of potential suppliers indicates that modern vinyl if fitted correctly does not damage the vehicle and will have no lasting effects. This would be a stipulation and requirement of any supplier of Torbay door signs.

Whilst there is resistance to this being implemented it is clear that it follows best practice and is an additional safeguard affording easier identification to the travelling public and assisting officers in carrying out enforcement and compliance duties.

Door Sign Exemptions

Some Private Hire Vehicles are utilised purely in the executive/high end trade, some respondents have indicated that their clients do not wish to be driven in a vehicle that looks like a Private Hire Vehicle. As with a number of other Authority areas, it is important that this is recognised and that exemption to the livery requirements for Private Hire Vehicles only, should be permitted in a small minority of cases where it can be shown that the vehicle is a) of an executive standard and b) used solely on executive and/or corporate work.

In cases where an exemption is sought, application should be made in writing to the Licensing Authority, outlining the reasons for the request and providing details of the nature of work undertaken in the specific vehicle. Exemption should only apply once the request has been determined and written confirmation has been received from the Licensing Authority.

A vehicle exemption will only be valid, if the letter of authorisation and the vehicle licence plate are carried in the vehicle and produced to any authorised officer upon request. Any failure to do so would be considered a breach of licence condition.

Recommendation L:

That permanent vinyl door stickers as consulted in the draft Policy, be implemented as a requirement on both Hackney Carriage and Private Hire vehicles with effect from 1st May 2019.

Recommendation M:

That a section be added to the Policy relating to Door Sign and Plate exemptions as indicated in the appropriate section above.

Vehicle Specification, Standards and Schedule of Conditions (Appendix D)

Amendment 8:

Wheelchair Accessible Vehicles (WAV's): Currently, there are no set specific criteria or conditions for these vehicles. This section has been added in order to clarify the requirements and conditions relating to WAV'S.

Question 8: Please tell us your thoughts on the conditions proposed.

Of the 213 questionnaires that were returned, only 78 entered comments with regard to WAV's. By assessing the comments, this is seemingly because not all drivers consider the conditions relevant as they drive standard vehicles.

Of the 78 comments, 30 simply stated 'not applicable' or no comments. The other comments considered this to be a good idea.

Particularly in light of the requirement of drivers of WAV vehicles under the Equalities Act 2010 and the fact that approximately 8% of the Torbay fleet of Hackney Carriage and Private Hire Vehicles is wheelchair accessible, it is considered essential that the duties and responsibilities in this area are clarified.

Recommendation N:

Conditions relating to WAV's should be included in the final Policy as published in the draft consultation document.

Livery (14.50 and Appendix D)

Amendment 9:

A standard livery helps with easy identification of licensed vehicles and promotes customer confidence, as they can be recognised easily from a distance. A change is proposed to the policy to implement a standard livery for licensed vehicles. Currently there is no such policy.

The options being considered are:

- a) Both Hackney Carriage and Private Hire Vehicles to be White in colour with a contrasting vinyl wrapped boot and bonnet (in a different colour, potentially matching the plate colour of blue and red).

- b) Hackney Carriage only to be White with a contrasting vinyl wrapped boot and bonnet (in a different colour, yet to be determined) and Private Hire Vehicles and therefore a different colour, maybe Black with a contrasting vinyl wrapped boot and bonnet.

In all cases, existing licensed vehicles will be required to conform to the new policy when at any time the vehicle is replaced i.e. at the end of its 10 year life (as proposed) or sooner should the owner purchase a new vehicle.

Question 9: Assuming that a Livery Policy is introduced as proposed, which option do you prefer a) or b)?

Option a	9	4.2%
Option b	30	14.1%
Neither	150	70.4%
Don't know	18	8.5%
No response	6	2.8%
Total	213	100%

This area of the proposed Policy is the one area that has met with the most concern from the licensed trade. Some 70.4% of respondents opted for neither option with regard to Livery, which is enhanced by the TPHA response and the 3 separate letters of representation.

The TPHA response states:

'We are struggling to understand why we might require this change in policy. Areas that have a livery policy generally have problems with cross border hire. Torbay doesn't have this problem. Only 30% of all Licensing Authorities have adopted a livery policy in England. These areas are generally surrounded by multiple Licensing Authorities.

Private Hire vehicles are not mistaken for Taxis as they do not sit on Taxi ranks. There just isn't a problem that needs solving here. Why would the Authority wish to bastardize an expensive vehicle like Mercedes, Audi, BMW or any other high end Taxi or Private Hire?

This change of policy would restrict the work available to everyone. Who would hire a car with this livery from the Torbay area for a wedding, funeral, executive transfer etc? This would drive people to hire vehicles from outside the area, for example, Teignbridge, or South Hams.

The Council recognises the need for taxis to remove their roof sign for weddings, funerals etc. There is already provision for this in the policy but what's the point if the car is ruined by livery?

Summer plates change from Taxis to private Hire and then back again. Taxi's and private Hire change from one to the other regularly. The switching of plates would be almost impossible financially.

Livery can also lead to cars being subject to break in and theft. When a car is left unattended it stands out and screams Taxi to an opportunist.

Whilst wrap can be removed, it may well lead to paint damage. Also over time a cars paint fades a little. When the wrap is removed the original paintwork doesn't match the uncovered. The policy would cost the operator too much. Lost revenue and extra expense'.

Of the 213 responses via the questionnaire, 142 have commented. Many of these are against the proposal, mainly on the basis that the vehicles are used as private cars when the driver is not working and for reason of expense and devaluation of the vehicle when wrapping is removed. A number of the comments, however (33) are positive, recognising a need for livery but generally being against wrapping and 'two tone' vehicles.

Amongst the positive comments received, there are a number which state that it would achieve standardisation within the fleet, make the vehicles easier to distinguish and would set a high standard. One comment states that this should have happened years ago, whilst approximately 12 or so comments have suggested that different colours for each vehicle type would be more appropriate e.g. one uniform colour for Hackney Carriage and a different colour for Private Hire.

Some comments suggest that a livery should be applicable to Hackney Carriage but not to Private Hire. A number of responses have also suggested that black would be a better colour than white as black vehicles are easier to source as they are produced in greater numbers and generally look like 'taxis'.

It is difficult to gauge with accuracy, the degree of support for a uniform colour rather than two tone, as this was not an option that was consulted upon following the draft that was agreed by Licensing Committee in March of this year. It is however, fair to say that the consultation has indicated that there would be stronger support for a one colour requirement rather than two tone, albeit, it is likely that preference would still be against any form of livery.

Consideration and Proposal:

Section 47 (2) of the Local government (Miscellaneous provisions) Act 1976 (the 1976 Act) provides that a District Council may require any Hackney Carriage licensed by them to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a Hackney carriage.

Section 48 of the 1976 Act makes provision for licensing of Private Hire vehicles, however, there is a stipulation that the 'District Council' shall not grant such licence unless they are satisfied (amongst other matters) that the vehicle is of suitable type, size and design, not of such an appearance that would lead any person to believe that the vehicle is a Hackney Carriage.

An assessment of 348 Licensing Authorities in England, Scotland, Wales and Northern Ireland that are listed on the 'Private Hire and Taxi Monthly' website indicates that 101 Authorities have a Hackney Carriage Livery Policy and only 7 have a Private Hire Livery Policy. Of the Authorities where there is a Hackney Carriage Livery, 49 of these carry a stipulation that the Private Hire vehicles in that area may not be of the same colour as the Hackney Carriages.

This assessment fits with the TPHA figure relating to the percentage of Authorities where a Livery Policy has been introduced. It is unknown however, how recent these figures are. However, it appears that whilst a number of these relate to large towns and cities, there is a mix with some of these policies applying in areas of similar size to Torbay.

Whilst section 47 of the 1976 Act permits the Council to impose a livery policy (and any other applicable features) on Hackney Carriages to which it grants a licence, it would not be considered to be good practice to do this without reason. It has been pointed out in the TPHA response that due regard should be taken of section 2.8 of the current Policy. It is therefore, important to outline the reasons behind the proposal for a livery policy.

Uniformity will only be achieved over a period of time, however, it will produce a fleet that is easily recognisable and portrays a professional image of Torbay. Moreover, it promotes customer confidence and safety, where in addition to door stickers (as above) the vehicle looks like a Hackney Carriage and reduces any risk of mistakes or 'imposter' vehicles (either unlicensed entirely or licensed by other authorities but plying unlawfully in the Torbay area) by making Hackney Carriages in particular, easier to distinguish. Currently, aside from a small plate on the rear of the vehicles and (in the case of a hackney carriage) roof signs, there is no clear distinction between the two vehicle types. Therefore this is also a factor that improves matters around safeguarding, by instilling confidence into the public that the vehicle is legitimately vetted and licensed.

Whilst not a regular occurrence, there are sporadically complaints of Private Hire Vehicles stopping on taxi ranks or parking in busy areas, which may be construed as 'ply for hire', something that only Hackney Carriages may do. This has particularly been an issue reported in the Torquay Harbourside area and if the Hackney Carriages are distinctive, this will make such offences easy to spot.

A number of drivers have suggested that the rear plate of the vehicle is removed from time to time, when the vehicle is not in use as a licensed vehicle. This is not only unlawful but creates an impossible situation with compliance testing and enforcement. The Benson v Boyce decision confirmed that once a vehicle is licensed it is always a licensed vehicle and may only be driven by the holder of the appropriate drivers licence issued by the Licensing Authority. Without the plate (or taxi sign with regard to Hackney Carriages) the vehicle is not identifiable.

There is strong concern over the proposal for two tone (wrapped) Hackney Carriage and Private Hire vehicles. These concerns relate to excess expense, restricting use as a private (family) vehicle, looks unprofessional, the proposal to make both vehicle types two tone would make them look too similar and suggestions that the wrapping is not of a good quality.

Hackney Carriage

It is proposed that a Hackney Carriage should look like a Hackney Carriage and be clearly identifiable, assisting with safeguarding and customer confidence, whilst creating a uniform and professional looking fleet.

However, with such a strong response to this aspect of the consultation, the views of the trade members should not be ignored. Whilst it is believed that some concerns are unfounded, there are equally some legitimate points raised. Wrapping of vehicles does carry additional expense and of those that are wrapped (or sprayed) in two tone colour up and down the Country, these are generally in large Towns or in Cities, where there may be more significant local issues than in Torbay. The vast majority of the 101 liveried Hackney Carriages as identified above are one singular colour, which (whilst there are exceptions) is generally black or white.

Wrapping does have to be done correctly otherwise it will not look right and certainly would not portray a professional image. Upon consideration therefore, it is suggested that whilst a livery policy is necessary and should be introduced, the objectives of doing so would be achieved by requiring one single colour. This would not place additional cost burden onto the licence holder and will satisfy to a degree the concerns of drivers relating to private use of the vehicles, albeit there would still be the requirement that door signs and roof lights remained on the vehicle at all times.

The original proposal was for a white base colour for each vehicle, however, again in consideration of some of the comments received and following some research following those comments, the proposal is to change this to black. Black is a colour that is consistent to a large degree across different vehicle manufacturers.

In time this would provide Torbay with a smart Uniform fleet of Hackney Carriages, liveried in Black, with professional door signs, easily recognisable and providing assurance to the public that they are fully vetted and safe to use.

Private Hire

A Private Hire Vehicle should be clearly distinguishable apart from a Hackney Carriage, this is underpinned by section 48 of the 1976 Act. In addition, the way in which these vehicles are hired is totally different to that of a Hackney Carriage. A Private Hire Vehicle must be pre booked through an operator and will generally have the name and destination address of the hirer. This in itself provides some security for the public.

Whilst a livery policy would standardise Torbay vehicles, the fact that only 7 Authorities throughout the Country (all large Towns and Cities) have a livery policy for Private Hire Vehicles, illustrates the fact that this has not generally been considered necessary for safeguarding or compliance. This has been pointed out in some of the consultation comments. Even if Hackney Carriages were required to be two tone, the same requirement for Private Hire (albeit a different colour) would not provide a clear enough distinction between the two vehicle types.

When a customer books a Private Hire Vehicle, they expect a standard saloon or MPV to arrive, they are confident as to the safety of the vehicle having telephoned a legitimate operator and having been (in some cases) provided with the vehicle details in advance.

In view of this and under the assumption that the vehicle is permanently fitted with door signs that state that a pre-booking is required there are no concerns to be addressed with design of appearance of a Private Hire Vehicle, save for it must not look like a Hackney Carriage. The proposal relating the Private Hire therefore, is that the new Policy does not require a specific livery for them, they may be of any colour, however, not Black. This will ensure that with publicity, the public are aware of the distinction i.e. Black with door sticker, roof light and blue plate it is a Hackney Carriage; A vehicle of any colour other than black with door sticker and red plate is a Private Hire.

Recommendation O:

That the Policy is amended to remove the requirement for any Hackney Carriage or Private Hire Vehicle to be wrapped in contrasting colours, that Hackney Carriages should be required to be in manufactures black only and that Private Hire Vehicles may be of any colour other than Black. That this condition comes into force immediately in all cases for newly licensed vehicles and will apply to existing licensed vehicles at point of replacement of the vehicle whenever that may be.

Engine Size and Type (Appendix D)

Amendment 10:

Updated to take account of advances in engineering over recent years and to make allowance for greener and less polluting vehicles. It is recognised that Cubic Capacity (CC) is not a measure that fits all vehicle types e.g. electric. This change recognises that smaller engines now have great power output and establishes a measure of engine/motor size that is universal across vehicle types.

This change paves the way for introduction of greener vehicles e.g. electric and hybrid, which are encouraged by the Licensing Authority.

Reference to Cubic Capacity (CC) has been removed and replaced with a minimum standard of Brake Horse Power (BHP) set at 103 BHP. Modern vehicles are able to achieve greater output at lower CC than has historically be the case, which means that a measure of CC is to some extent outdated. BHP is a good measure of vehicle power and may also be ascertained in relation to electric vehicles, which are measure in Kilowatts (KW) rather than CC. There is a calculation available to convert KW to BHP and this therefore makes sense and provides clarity for vehicle owners, whilst maintaining a minimum standard of vehicle power.

Question 10a: Do you agree with the above change?

Yes	123	57.7%
No	10	4.7%
Don't Know	77	36.2%
No Response	3	1.4%
Total	213	100%

The standard of 103 BHP is also set in respect of fully electric and hybrid vehicles.

Question 10b: Do you agree with the above change in respect of fully electric and hybrid vehicles?

Yes	107	50.2%
No	7	3.3%
Don't Know	81	38.0%
No Response	18	8.5%
Total	213	100%

The current measure of 1400CC has proven restrictive to the trade over recent years following development of leaner and more economical engines, which can produce higher powers at lower engine capacities. This is a change that benefits the trade, both with regard to a wider availability of vehicles and ability to purchase vehicles that are more economical and less polluting to run. This is reflected in the above responses where only 4.7% of respondents disagree with the change generally and only 3.3% disagreeing with regard to electric and hybrid vehicles.

Recommendation P:

That this amendment with regard to all vehicle types be agreed as consulted upon in the draft Policy.

CCTV (Appendix K)

Amendment 11:

CCTV use is expanding nationally, with a number of drivers installing systems for security reasons. The Licensing Authority does not intend to require the use of such systems, nor does it intend to prohibit their use. The choice is therefore left to individual drivers and vehicle proprietors.

It is important however, that any CCTV installation is fitted and operated in line with government regulation, being fully compliant with data protection rules. The surveillance commissioner has established protocols and guidance to govern use of CCTV systems, this appendix is drawn from that and is intended to become an operating condition in respect of any use by a driver or proprietor of a CCTV system.

Question 11: How strongly do you agree with the Licensing Authority's stance on CCTV usage?

Strongly agree	29	13.6%
Agree	89	41.8%
Neither agree nor disagree	71	33.3%
Disagree	10	4.7%
Strongly disagree	5	2.3%
No response	9	4.2%
Total	213	100%

55.4% of respondents agree with the change and another 33.3% gave no firm opinion. If the Licensing Authority were to require CCTV in vehicles it is then the Licensing Authority that would become the data controller. This would be totally impractical given the total number of vehicles (in excess of 450) licensed by this Authority.

Whilst it is not proposed that CCTV should become a requirement, the Licensing Authority should not restrict use of such a system by any driver or operator that wishes to install one in their vehicle. These are a crime deterrent and provide evidence to assist drivers or passengers where there is accusation of a crime or disorder within the vehicle.

In using a CCTV system, drivers and operators need to understand the law and have a duty to comply with strict data protection protocol. This addition to the Policy provides the necessary information and guidance to allow lawful and safe use of CCTV systems.

Recommendation Q:

That the CCTV information as contained in the consultation document be included in the final published Policy.