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# Notice of meeting and agenda

# **Regulatory Committee**

9.30am, Monday, 23rd August, 2021

Virtual Meeting - via Microsoft Teams

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The law allows the Council to consider some issues in private. Any items under "Private Business" will not be published, although the decisions will be recorded in the minute.

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## 1. Order of Business

1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## 2. Declaration of Interests

2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

# 3. Deputations

**3.1** If any.

## 4. Minutes

**4.1** Minute of the Regulatory Committee of 17 May 2021 – submitted 5 - 8 for approval as a correct record

# 5. Rolling Actions Log

**5.1** Rolling Actions Log 9 - 16

# 6. Business Bulletin

**6.1** Business Bulletin 17 - 24

### 7. Executive Decisions

7.1 Age Limitation and Emissions Standards for Taxis and Private25 - 50Hire Cars – Retrofit – Report by the Executive Director of Place

7.2 Landlord Registration – Previous Convictions – Report by the51 - 62Executive Director of Place

7.3 Houses in Multiple Occupation – Service Update – Report by the
 63 - 70
 Executive Director of Place

7.4 Licensing Service – COVID-19 Recovery Plan – Report by the 71 - 76

## 8. Routine Decisions

**8.1** None.

### 9. Motions

**9.1** None.

## **Andrew Kerr**

Chief Executive

## **Committee Members**

Councillor Catherine Fullerton (Convener), Councillor Denis Dixon (Vice-Convener), Councillor Scott Arthur, Councillor Max Mitchell, Councillor Joanna Mowat, Councillor Susan Rae, Councillor Cameron Rose, Councillor Neil Ross and Councillor Donald Wilson

# Information about the Regulatory Committee

The Regulatory Committee consists of 11 Councillors and is appointed by the City of Edinburgh Council.

This meeting of the Regulatory Committee is being held virtually by Microsoft Teams.

### **Further information**

If you have any questions about the agenda or meeting arrangements, please contact Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, email lesley.birrell@edinburgh.gov.uk / matthew.brass@edinburgh.gov.uk.

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# **Minutes**

# **Regulatory Committee**

# 9.30am, Monday 17 May 2021

#### **Present**

Councillors Fullerton (Convener), Dixon (Vice-Convener), Doran (substituting for Councillor Arthur), Mitchell, Mowat, Rae, Rose, Neil Ross and Wilson.

### 1. Minutes

#### **Decision**

To approve the minute of the Regulatory Committee of 8 March 2021 as a correct record.

# 2. Rolling Actions Log

The Regulatory Committee Rolling Actions Log for May 2021 was submitted.

#### **Decision**

To agree to note the outstanding actions.

(Reference – Rolling Actions Log of 17 May 2021, submitted)

## 3. Business Bulletin

The Regulatory Committee Business Bulletin for May 2021 was submitted.

### Decision

To note the Business Bulletin.

(Reference – Business Bulletin, submitted)

# Age Limitation and Emissions Standards for Taxis and Private Hire Cars – Annual Update

The Committee agreed to hear two deputations from the following organisations in relation to the report on the Age Limitation and Emissions Standards for Taxis and Private Hire Cars – Annual Update.

## 4.1 Deputation - City Cabs

The deputation highlighted the following issues:

 The expenses incurred by the taxi trade over recent years as a result in upgrading vehicles to comply with the age limitation and emissions standards



- policy, the increase in number of private hire cars and the costs of the Covid019 pandemic.
- That around 100 taxi operators/drivers had so far converted their vehicles to LPG and that there was concern over the supply of fuel which the trade was engaging to resolve.
- The LPG conversion was a good option for many drivers including those who
  could not afford or for whom it would not be viable to purchase a new vehicle to
  comply with the new standards.
- That LPG conversions could make vehicles reach Euro 6 standard emissions requirements and had been tested and approved by Transport Scotland.
- Some other local authorities had approved conversions to assist in reaching their goals in relation to emissions and climate change.

A written submission had also been circulated in advance of the meeting which members took into consideration.

The deputation requested that the Committee consider LPG conversions as an alternative option for taxi operators for complying with the new age and emissions policy.

# 4.2 Deputation – Edinburgh City Private Hire and Seven Sevens Cars

The deputation highlighted the following issues:

- Where responsibility lay within the Council for implementing low emission zones (LEZs) and which Committee had oversight of this.
- The importance of consultation being carried out with both the taxi and private hire trades as part of the development of LEZs.
- The private hire trade fleet already included a number of electric vehicles and this was likely to increase over the next few years.

The deputation asked that officers responded to the issues raised.

## 4.3 Report by the Executive Director of Place

An annual update was provided on the taxi and private hire cars age limitation and emissions standards policy, as requested when the policy was introduced in March 2018. The report provided the Committee with an update on the implementation of the policy.

### **Decision**

- 1) To note the contents of the report and agree that no further amendments to the policy would be made at this time.
- 2) To note the amendments made by the Committee on 2 November 2020 to the implementation dates of the Age and Emissions policy.
- 3) Given changes:
  - i. in regulations, recent and intended; and
  - ii. in the technical specification of the supply of low emission vehicles, including retrofit options,

instructs a report, as soon as reasonably practicable, assessing such changes and providing options for incorporating beneficial changes which may impact on age limit and Euro 6 in the City of Edinburgh Council standards and licensing regime.

(Reference – Regulatory Committee of 16 March 2018 (item 2), report by the Executive Director of Place, submitted)

# 5. Motion by Councillor Barrie – Street Occupation, Trading, Licenses and Permits

# 5.1 Deputation – Mercat Tours

The Committee agreed to hear a deputation from Mercat Tours in relation to the motion submitted by Councillor Barrie.

The deputation highlighted the following issues:

- Operating costs for companies such as Mercat Tours which provided walking tours in the city had increased over recent years while support decreased.
- That the company had chosen to apply for a street traders' licence, sign up to the scheme to help protect and maintain cemeteries and support the Council in its aims to de-clutter streets to aid accessibility, in order to remain a responsible and ethical company.
- This had caused damage to the business which no longer had any visible onstreet presence.
- Competitors in the area could choose not to be licensed or registered while providing similar services as there was no obligation to apply for a street traders' licence.
- The inconsistent approach to the support provided by the Council as a result of the Covid-19 pandemic, for example hospitality businesses being allowed to use streets for tables and chairs but there was no equivalent for walking tours.
- Walking tours promoted active, low-carbon activities in the city.

The deputation asked that the Council do more to support walking tour companies.

A written submission had also been circulated in advance of the meeting which members took into consideration.

# 5.2 Motion by Councillor Barrie

The following motion by Councillor Barrie was submitted in terms of Interim Standing Order 32.1:

"Committee will be aware of question 18 at Council on 29 April 2021 and the response provided:

'Question (1) What support is being made available by CEC to walking tours to 'get businesses back on their feet' and will their licensing fees be similarly waived or discounted?

Answer (1) The majority of walking tours do not require a license under the current provisions of the relevant licensing legislation, as either payment is made on-line or the

tour is free of charge and relies on tips. Walking tours are encouraged to engage with and participate in the Forever Edinburgh recovery campaign. They have also had access to similar financial support as other businesses, in particular the discretionary fund in the event that they were ineligible for the Visit Scotland tour guide fund. If walking tours can evidence income drop as an eligible business, they would also have been eligible for discretionary support funding. We are aware some walking tour guide guides qualified for the tour guide support, which was administered by Visit Scotland, businesses which received this funding would have been ineligible for additional payments through the discretionary support.

Question (2) Will Council consider favourably allowing walking tours to apply for Outdoor Area Occupation Permits to allow them on street visibility to aid their business recovery?

Answer (2) While the Council is taking all possible means to support business recovery, Outdoor Area Occupation Permits are specifically for businesses who want to provide tables and chairs on the pavement and therefore could not be used for the purpose of increasing on-street visibility.'

Committee will be aware that the discretionary financial support described in answer (1) was very likely available to the licensed premises that have had their outdoor area occupation permits waived by Council.

Answer (2) suggests that 'Council is taking all possible means to support business recovery.'

In support of 'all possible means' Committee calls for an urgent report, within one cycle, to consider what further steps could be taken regarding permits costs, eligibility of businesses not necessarily seeking to use table and chairs as part of business recovery, to apply for and use suitable Outdoor Areas in the city and whether such permits would be chargeable. This report should include consideration of conditions and costs applied to market traders, street traders and outdoor space occupancy with a view to considering what amendments might take place to assist companies and organisations in their post Corvid recovery and beyond.

Should beneficial measures be identified prior to the next Regulatory Committee that takes place on 23 August 2021, consideration should be given to see if they can be implemented if agreement can be reached with Group Spokespersons."

#### Decision

To approve the motion by Councillor Barrie.

(Reference – Act of Council No. 20 of 29 April 2021)

# **Rolling Actions Log**

# **Regulatory Committee**

23 August 2021

	No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
	1	20.05.19	Age Limitation and Emissions Standards for Taxis and Private Hire Cars - Update	Instructs the Chief Executive to include this additional delegation (with respect to notification of intended retirement and one year extension) in future drafts of the Council's Scheme of Delegation when submitted to Council for approval.	Chief Executive	August 2021		Recommended for closure – scheme of delegation report including this update to be considered by Council in August 2021
-	2	19.08.19	Request for Variation: Taxi Vehicle Licence Conditions (Advertising)	Instructs the Chief Executive to include this additional delegation in future drafts of the Council's Scheme of Delegation when submitted to Council for approval.	Chief Executive	August 2021		Recommended for closure – scheme of delegation report including this update to be considered by Council in August 2021
	3	21.10.19	Internal Audit Findings – Timescales for	To include expected completion dates of management actions identified in the Audit in the	Executive Directors of			l Item

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
		Completion of Management Actions	Committee's rolling actions log for ongoing monitoring of progress.	Place and Resources			
			Implementation of system upgrade to APP Civica CX	Executive Director of Resources	December 2021		Project to replace APP commenced in March 2021
			Performance assessment of system issues with APP as part of a wider performance report	Executive Director of Place	March 2021		This outstanding action is currently being reviewed for discussion with Internal Audit.
			3. BACS payment reference	Executive Director of Place	March 2021		This outstanding action is currently being reviewed for discussion with Internal Audit.
			4. Inspection Revisit Policy	Executive Director of Place	March 2021	March 2021	Action complete
			5. Allocation of Inspection Visits	Executive Director of Place	November 2019	March 2021	Action complete

No	Date	Report Title	Actio	on	Action Owner	Expected completion date	Actual completion date	Comments
			6.	Inspection documentation	Executive Director of Place	October 2019	29 January 2020	Action complete
			7.	Request Refund Policy	Executive Director of Place	October 2019	2 November 2020	Action complete
			8.	Reconciliation between physical applications and APP system	Executive Director of Resources	October 2019	2 November 2020	Action complete
			9.	HMO Key Performance Indicators and Performance Reporting	Executive Director of Place	March 2021		This outstanding action is currently being reviewed for discussion with Internal Audit.
			10.	Training and Guidance documentation	Executive Director of Place	November 2020	18 January 2021	Action complete
			11.	HMO application processing procedures	Executive Director of Place	December 2019	2 November 2020	Action complete

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
4	09.03.20	Private Hire Car Overprovision	To instruct officers to undertake the actions as detailed in section 5 of the report:  • Officers would undertake necessary actions to appoint an appropriately experienced and skilled external consultant to undertake the required research and analysis work on taxi demand and assessment of PHC overprovision. A full equalities impact assessment would be required with regard to any recommendations that the consultant submitted to the Council.	Executive Director of Place	Dec 2021		Procurement of consultants was delayed by the public health emergency. Report appointing consultants approved by Finance and Resources Committee in March 21.  Initiation meeting with consultants has taken place.
			<ul> <li>In addition, officers would continue to engage directly with relevant stakeholders.</li> <li>Upon conclusion of any</li> </ul>				

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
			completed by an appointed contractor, officers would present the collected data and any supporting information to the committee.  It was intended to undertake consultation with a wider group, including making the results of the research and any recommendations brought forward by officers, available for public consultation.				
5	18.01.21	Air Weapons and Licensing (Scotland) Act 2015 – Sexual Entertainment Venues – Proposed Resolution, Policy and Conditions	Instruct that a statutory consultation on the draft resolution, policy and conditions set out in Appendices 1, 2 and 3 is carried out, with the results and recommendations to be brought back to the Committee for agreement in principle.	Executive Director of Place			Consultation went live on 12 April 2021 and now complete. Formal proposals will be made within two cycles.

No	Date	Report Title	Action		completion	Comments	
6	18.01.21	Licensing Policy Development – Street Trading Update	To agree that the Convener would write to the Executive Director of Place to request a short term plan which would consider opportunities for street trading, including the use of vacant properties, and to consider a longer term plan to facilitate street trading.	Convener / Executive Director of Place	May 2021		
7	17.05.21	Age Limitation and Emissions Standards for Taxis and Private Hire Cars – Annual Update	Given changes: i. in regulations, recent and intended; and ii. in the technical specification of the supply of low emission vehicles, including retrofit options, instructs a report, as soon as reasonably practicable, assessing such changes and providing options for incorporating beneficial changes which may impact on age limit and Euro 6 in the City of Edinburgh Council standards and licensing regime.	Executive Director of Place	As soon as practicable		Update report submitted to the August meeting

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
8	17.05.21	Motion by Councillor Barrie – Street Occupation, Trading, Licences and Permits	In support of 'all possible means' Committee calls for an urgent report, within one cycle, to consider what further steps could be taken regarding permits costs, eligibility of businesses not necessarily seeking to use table and chairs as part of business recovery, to apply for and use suitable Outdoor Areas in the city and whether such permits would be chargeable. This report should include consideration of conditions and costs applied to market traders, street traders and outdoor space occupancy with a view to considering what amendments might take place to assist companies and organisations in their post-Covid recovery and beyond.  Should beneficial measures be identified prior to the next Regulatory Committee that takes place on 23 August 2021, consideration should be given to see if they can be implemented if agreement can be reached with Group Spokespersons.	Executive Director of Place	August 2021 or earlier by agreement of Group spokespers ons		This is currently being considered as part of a review of the current arrangements for outdoor area permits and Committee will be updated as soon as possible on this.

# **Business bulletin**

**Item 5.1** 

# **Regulatory Committee**

9.30am, Monday, 23 August 2021

Dean of Guild Court Room, City Chambers, High Street, Edinburgh

# **Regulatory Committee**

# Contact: **Convenor:** Members: Councillor Catherine Fullerton Councillor Scott Arthur Lesley Birrell Councillor Susan Rae Committee Services Councillor Cameron Rose 0131 529 4240 Councillor Donald Wilson Councillor Max Mitchell **Andrew Mitchell** Councillor Neil Ross Regulatory Services Councillor Joanna Mowat Manager 0131 529 4208 Vice-Convenor Councillor Denis Dixon

Recent News Background

### Taxi and PHC SORNed Vehicles

At the Regulatory Committee meeting of 8 March 2021 members heard from council officers that measures should be taken to prevent annually recurring periods of peak demand at the Taxi Examination Centre (TEC) between August and January. The committee agreed to offer a limited deferral of fees for vehicle operators who would otherwise be required to make two payments for renewal of their licences in a period of less than 12 months. To achieve this, in 2021 vehicle testing dates would revert to their original schedule, but payments would be staggered with a payment due later in 2021 and a return to the original payment schedule in line with their renewal application in 2022.

From 1 September 2021 the practice of SORNing vehicles will still be available to vehicle owners. However, in line with the committee's decision on 8 March 2021, vehicles' compliance checks will revert to their original schedule in line with the renewal application date. Owners will be required to apply to renew their licence and to present their vehicle for test prior to the expiry of their licence. This falls in line with legislative requirements. From this point, any licence holder who does not have a vehicle that has been tested will have 28 days to comply, failing which the licence would normally be refused.

Licence holders who SORN their vehicle will still be required to:

- 1. Provide proof of SORNed status to CEC; and
- Return to TEC the physical plates from the internal and external parts of the vehicle, to ensure that the vehicle did not display any signage suggesting that it was licensed to operate as a vehicle for hire by CEC during its period of SORN.

During the COVID Lockdown Period, to assist the trade, taxi and PHC owners were given an opportunity to SORN their vehicle/s while retaining their vehicle licence/s. The protocol adopted required licence holders to:

- Apply (and pay for) for renewal of licence before its expiry date in the year in which test deferral is sought;
- 4. Provide proof of SORNed status to CEC; and
- 5. Return to TEC the physical plates from the internal and external parts of the vehicle, to ensure that the vehicle did not display any signage suggesting that it was licensed to operate as a vehicle for hire by CEC during its period of SORN.
- Defer their Compliance check for a period of up to 9 months

# Taxi and PHC grant fund

Grants of £1,500 were available to all Edinburgh licensed taxi and PHC drivers who:

- Had been working or available to work as a taxi/PHC driver from 9 October to at least 31 January 2021; and
- Had experienced loss of income up to 31 December 2020 (50% of turnover, compared with 2019)

The First Minister announced in November that the Scottish Government would introduce measures to help taxi and private hire car drivers financially affected by the impact of coronavirus. A discretionary fund

The fund closed on 25 March 2021. 4,405 drivers received a £1,500 grant, meaning that a total of £6,607, 500 was paid out.

# Additional taxi and PHC grant fund from the Edinburgh Discretionary Business Support Fund

On 20 April 2021, those drivers who had benefitted from the initial grant of £1,500 received a further £1,000 top-up grant from the discretionary funding available to the Council. This additional award from the discretionary grant fund totalled £4,406,000.

# Taxi and Private Hire Driver and Owner or Operator Support Fund 2021/22

The fund was in two parts - on 14 June 2021, 4,405 drivers who had benefitted from the initial grant of £1,500 in March 2021 received a further £1,500 top-up grant, meaning that a further £6,607, 500 was paid out.

The second part of the fund was for owner operators and applications for this fund opened on 18 June 2020. To date over 2112 applications have been processed paying out a total of £2,349,000.

The Taxi and Private Hire Driver and Owner or Operator Support Fund 2021/22 closed on 23 June and the final payments are being processed.

would enable local authorities to provide additional support for taxi/PHC drivers who are suffering a severe but indirect effect of the pandemic.

On 2 June 2021 the Scottish Government announced a £62M fund to assist eligible taxi or private hire drivers and private hire and taxi licence holders in Scotland with fixed costs.

# **Sexual Entertainment Venues update**

The second round of public consultation on a draft policy and licence conditions for SEV licensing closed on 2 July 2021 after 12 weeks. The consultation sought views from members of the public and any other interested parties on the location and number of SEV premises within the city, in addition to asking for comments on the draft policy and conditions framework. Officers will analyse the responses and bring forward a report on the results of the consultation later in the year.

On 21 March 2019 a commencement order was laid before the Scottish Parliament which provides local authorities with the powers to introduce a discretionary licensing regime for Sexual Entertainment Venues (SEVs).

A SEV is defined as a premises where sexual entertainment is performed live, for the direct or indirect financial benefit of the organiser and for the sole purpose of sexual stimulation of members of the audience.

#### Taxi fares

Research for the second of these surveys is underway, with two meetings with the trade having taken place as part of the research. The research will allow the

The Council, as Licensing Authority for taxis, is required to review and fix the scale of fares Regulatory Committee to agree a new fare tariff in September 2021.

This research is being carried out in tandem with research on demand for taxis and Private Hire Cars, which will ensure that the processes are joined up where appropriate. or any other charges which may be used by taxis licensed within the city. This review must take place at intervals not greater than 18 months.

In June 2019 Jacobs was commissioned to undertake the next three surveys of taxi fares.

The Council has no powers to regulate fares charged by Private Hire Cars.

# **Booking offices**

During the lockdown period, applications for the grant of new Booking Office Licences were received with respect to two premises.

Each premises is part of a serviced office building and the stated intention is to operate an 'app'-based booking system for Private Hire Cars in both cases. Applicants were vetted by Police Scotland and Interviewed by Council officers. The applicants for both premises agreed local booking office conditions, and the licences have been granted in line with the Council's Scheme of Delegation as no objections were received.

The requirement to hold a
Booking Office Licence was
introduced by the Civic
Government (Scotland) Act 1982
(Licensing of Booking Offices)
Order 2009. This requires a
licence to be held for premises
which are used for the taking of
bookings from members of the
public for hire of licensed taxis or
private hire cars ('PHCs'), where
more than three vehicles are
involved.

Booking Office Licences are subject to mandatory conditions set down in the Paragraph 3(c) of Schedule 1 to the said 2009 Order and local Licensing conditions as deemed appropriate

## Vehicle approval

Applications for approval as vehicles suitable for licensing as a taxi by the Council were received from:

- Allied Vehicles Ltd, which manufactures and sells vehicles for approval of the Ford Procab EV Plug in Hybrid model; and
- Dynamo Motor Company, which manufactures and sells vehicles adapted to be taxis for approval of the Dynamo 100% Electric Taxi.

Prior to allowing new vehicles to be licensed as taxis by the City of Edinburgh they must be approved as suitable and conform to the City of Edinburgh Council's Licensing Conditions for Taxis.

This requires that all vehicles must be 'type approved' for sale,

The Council's Senior Vehicle Examiner and Regulatory Officers have reviewed the information supplied by the applicants and inspected the vehicles in each case. Both vehicles were found to be suitable for licensing, although the vehicle supplied by the Dynamo Motor company will require after market parts to be installed prior to licensing.

registration or entry into service in the UK.

### **Short Term lets**

On 25 June 2021 the Scottish Government opened a further public consultation on the regulation of short term lets. The consultation seeks views on the draft Licensing Order and the Business and Regulatory Impact Assessment in order to identify any potential issues and solutions with both documents.

Additionally, as part of the Scottish Government Working Group on short term lets, the Council provided feedback on published draft guidance. Officers provided a response to help ensure that the legislation and guidance deliver a licensing and planning framework that is proportionate and effective. The Scottish Government intends to introduce draft legislation to the Scottish Parliament in September 2021. If approved by parliament, the legislation will come in to force on 1 January 2022 and local authorities will have until 1 October 2022 to implement a licensing scheme to receive applications.

The Council has previously expressed strong concern about the impact of certain aspects of the short term letting industry on the city. The Council previously agreed a position calling for additional regulation of the sector, either through changes to planning classifications or the introduction of a licensing system. To achieve the objective of additional regulation, the Scottish Government would be required to take action to introduce legislation.

## **Licensing Service performance**

The Licensing Service continues to deliver core services despite significant challenges - demand for licences continues to increase to near normal levels as the Scottish Government eases Coronavirus restrictions. Compared to 2019 (the last year in which Edinburgh Festival and Fringe events took place), the Service processed and issued a significant number of temporary licence applications whilst continuing to deliver frontline services, issue annual licences and implement significant policy changes. Additionally, the Service processed a number of Premises Licences and occasional licence applications in respect of the new St James Quarter development, in order that the Licensing Board could ensure that businesses were able to begin operating from their intended start date. Officers will continue to process applications as quickly as possible to help support the economic recovery of the city.

Each year the Licensing Service plays a vital role in the Council's ability to provide a world-class festival experience for residents in and visitors to the city. In addition to providing a successful summer for 'temporary customers' and continuing to deliver services for existing licence holders, the service has also managed a significant extra workload as part of the Council's response to the Coronavirus pandemic.

Forthcoming activities:



# **Regulatory Committee**

# 9.30am, Monday, 23 August 2021

# Age Limitation and Emissions Standards for Taxis and Private Hire Cars – Retrofit

Executive/routine
Wards All
Council Commitments

## 1. Recommendations

- 1.1 It is recommended that the Regulatory Committee:
  - 1.1.1 Notes the contents of this report;
  - 1.1.2 Agrees to amend the policy in respect of retrofit as set out in paragraph 4.11 and to delegate authority to the Executive Director of Place to approve LPG retrofit conversions in the future;
  - 1.1.3 Agrees to extend the Age and Emissions Policy milestones as outlined at paragraph 4.22; and
  - 1.1.4 Discharges the action from the Committee in May 2021 on retrofit options available for taxis and Private Hire Cars.

### **Paul Lawrence**

**Executive Director of Place** 

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# Report

# Age Limitation and Emissions Standards for Taxis and Private Hire Cars – Retrofit

# 2. Executive Summary

- 2.1 On <u>17 May 2021</u> the Committee considered an update on the Taxi and Private Hire Cars Age Limitation and Emission Standards Policy which was introduced on 16 March 2018. The Committee requested a further report providing additional information on retrofit options available to the trade which may have an impact on age limit and Euro 6 in the City of Edinburgh Council standards and licensing regime.
- 2.2 This report provides the Committee with an update on the implementation of the policy and discharges the remit to provide an update on retrofit devices for taxis and private hire cars (PHCs).

# 3. Background

- 3.1 The licensing of taxis and PHCs is an optional activity in terms of the Civic Government (Scotland) Act 1982 ('the Act'). As Licensing Authority under the Act, the City of Edinburgh Council passed a resolution in terms of Section 9 of the Act stating that Sections 10 to 23 of the Act shall have effect throughout the city, and that licences shall be required for taxis and PHCs from 1 July 1984 ('City of Edinburgh Taxi and Private Hire Car Driving Resolution 1983').
- 3.2 Section 10 of the Act requires the licensing authority to be satisfied as to the suitability in type, size and design of a vehicle for use as a taxi or PHC before granting or renewing a taxi or PHC licence.
- 3.3 On 16 March 2018 the Regulatory Committee agreed an age and emissions policy for taxis and PHCs (Appendix 1), which took effect from 7 May 2018, which:
  - 3.3.1 Introduced an age limitation in respect of taxis and PHCs; and
  - 3.3.2 Will incrementally increase the minimum emissions standards for the engines in these vehicles, which will improve emissions standards.

- 3.4 On <u>2 November 2020</u>, the Committee agreed to amend the terms of the Age and Emissions policy taking account of the pandemic, by delaying the implementation date of the following milestones until 30 September 2021 for:
  - 3.4.1 Existing vehicles no application will be accepted for licensing a taxi or PHC or as a replacement vehicle for an existing taxi or PHC if it was more than 10 years old (from the date of first registration); and
  - 3.4.2 Vehicles not currently licensed no vehicle will be accepted for licensing as a taxi or PHC or as a replacement vehicle for an existing taxi or PHC unless it is a Euro 6.
- 3.5 Since the introduction of the age and emissions policy the Licensing Service has received approximately 600 applications to vary the conditions of taxi or PHC licences. These have been referred to Committee to determine whether an exemption to the policy should be made.
- 3.6 The following table provides a year-by-year breakdown of decisions made by the Committee on applications for exemption since the implementation of the policy in May 2018. Time periods relate to the policy anniversary date. Members will note the % increase in the total number of applications which were granted in the 2019 2020 and 2020 2021 period compared with the 2018 2019 period (the first year of the policy):

	2018-2019	%	2019-2020	%	2020-2021	%	Total	%
Granted	137	48%	141	73%	91	76%	369	62%
Withdrawn	32	11%	16	8%	11	9%	59	10%
Refused	115	40%	29	15%	16	13%	160	27%
Continued	2	1%	8	4%	2	2%	12	2%
Total	286	100%	194	100%	120	100%	600	100%

3.7 On 17 May 2021 the Committee requested a further report providing additional information on retrofit options available to the trade which may have an impact on age limit and Euro 6 in the City of Edinburgh Council standards and licensing regime, so that it could consider any modifications of the policy which would assist with the policy's ongoing implementation.

# 4. Main report

## Retrofit/replacement engines and aftermarket devices

4.1 Retrofit means altering a vehicle's engine to reduce its emissions. Most retrofit systems fit to the existing 'dirty' engine and clean it up. Adding a filter and catalyst to the engine's exhaust reduces particulate matter (PM) and oxides of nitrogen (NOx), made up of nitrogen monoxide, or nitric oxide (NO) and nitrogen dioxide (NO2). Particulate matter (PM) includes soot and wind-blown dust. A diesel

- particulate filter (DPF) is fitted to remove 98-99% of tailpipe particulates. Nitrogen oxide (NOx) comprises nitric oxide (NO) and nitrogen dioxide (NO2). By fitting a selective catalytic reduction (SCR), NOx is reduced by 80-90%.
- 4.2 In some cases, a vehicle can be re-engined, i.e. the old engine is replaced with a new, cleaner engine. However, this requires significant upgrades to other parts of the vehicle's fuel and exhaust systems to be effective (i.e. replacement engine or LPG conversion).
- 4.3 When the Committee last considered this issue on <u>20 May 2019</u> it decided not to include provisions for retrofit/replacement engines or aftermarket devices within the Age and Emissions Policy.
- 4.4 The relevant advice offered to the Committee at that time can be summarised as follows:
  - 4.4.1 Upgrading a vehicle's engine does not automatically mean that there is an improvement to the emissions level;
  - 4.4.2 Any upgrade or installation of an aftermarket device requires ongoing regular maintenance to be effective. Where not maintained appropriately, this will not have the desired or purported beneficial impact on the vehicle's emissions; and
  - 4.4.3 Installation of aftermarket devices or retrofits do not automatically change the Euro Emissions Rating of a vehicle. An application can be made to DVSA to amend the tax bracket (therefore indicating that a reduced emissions rating has been applied to the vehicle). Where evidence of such an application being approved by the DVSA is provided, such a case should be considered on its own merits.
- 4.5 Whilst changes to policy and adoption of new technology may seem desirable on the part of the trade, in practice this has to be measured against the ability to put in place the correct checks and balances to ensure that technological solutions meet necessary standards and deliver the Council's wider policy intentions. Experience has shown that what is proposed may look reasonable in theory, but assessing suitability is difficult to achieve in practice. Certification is often difficult to obtain for individual vehicle owners, and the Taxi Examination Centre (TEC) is often presented with vehicles for exemption without evidence to support the case for exemption.
- 4.6 At the Regulatory Committee meeting on 17 May 2021, following a deputation by the trade and correspondence from City Cabs, the Committee asked Council officers to consider the use of retrofit systems generally, in particular with respect to a system approved by the Energy Savings Trust (Appendix 3). The Committee requested an update at the next available meeting.
- 4.7 The <u>Energy Savings Trust</u> is an independent, not-for-profit UK-based organisation focused on promoting action that leads to the reduction of carbon dioxide emissions. It is funded by both the UK and Scottish governments and the private sector.

- 4.8 The Energy Savings Trust and Transport Scotland have advised that not all retrofit solutions are considered suitable or appropriate and have established a 'Clean Vehicle Retrofit Approval Scheme' ('CVRAS accreditation'). Under this scheme the Energy Savings Trust has now approved a specific retrofit solution for Mercedes Vito, Mercedes M8 and Peugeot E7 wheelchair accessible taxis. This approved retrofit solution is supplied by Cybrand AEC LTD, and certification of this system is detailed in Appendix 3.
- 4.9 Council officers have noted that this system appears to be a fairly robust upgrade to vehicles that, once installed, only requires minimum maintenance by way of adding 'AdBlue', mirroring modern technology used in most new Euro 6 diesel engines.

  AdBlue is a solution which breaks down NOx into harmless nitrogen and oxygen.
- 4.10 In addition to the system approved by the Energy Savings Trust, there are a number of aftermarket devices and fuel additives that manufacturers claim can improve fuel economy and/or reduce exhaust emissions. The majority of aftermarket devices require ongoing maintenance and do not provide a permanent or fixed solution to emissions.
- 4.11 Glasgow City Council is now approving retrofit solutions on a case-by-case basis, where the system has been approved by the Energy Savings Trust, relevant certification has been received and confirmation provided that it does not interfere with the structural integrity of the vehicle.
- 4.12 Given that there are a wide range of retrofit solutions available, it is recommended that City of Edinburgh Council's policy is changed to allow retrofit, subject to the following conditions:
  - 4.12.1 Any such systems must be approved by the Energy Savings Trust;
  - 4.12.2 relevant certification must be provided prior to submitting the vehicle for test at the TEC;
  - 4.12.3 the system is installed by a garage approved by the Energy Saving Trust Accreditation Scheme; and
  - 4.12.4 the retrofit solution does not interfere with the structural integrity of the vehicle.

### LPG vehicles

4.13 The ability to retrofit existing licensed vehicles to using LPG fuel has previously been agreed by the Committee. Whilst LPG is a cleaner form of fuel than diesel or petrol, it is still a fossil fuel. The Committee has previously agreed to allow licensed vehicles to be converted to LPG as a short-term alternative to more polluting fuels, but any such decision to convert a vehicle was a commercial decision at the risk of the operator and not something advocated by the Council. The licensed fleet currently includes approximately 30 vehicles that have been converted to LPG.

- 4.14 The decision to approve the addition of a vehicle to the fleet after conversion to LPG is currently made by the Licensing Sub-Committee on a case-by-case basis. It is not proposed to change the policy in relation to LPG vehicles, but it is proposed that the Scheme of Delegation should be amended to delegate authority to the Executive Director of Place to approve such retrofit conversions in the future.
- 4.15 For members' information there are currently no LPG refuelling sites in Edinburgh, and the nearest service stations are in East and West Lothian. The provision of LPG is a commercial business activity and the previous five sites in Edinburgh have all closed. The trade has been exploring options, but to date no alternative supplier has been identified.

# Low Emission Zone (LEZ)

- 4.16 Low Emission Zones (LEZs) in Scotland are mandated by the Scottish Government to reduce longstanding exceedances of legal air quality objectives (Nitrogen Dioxide (NO<sub>2</sub>)) originating from urban road traffic. LEZs help to improve air quality by discouraging the most polluting vehicles from entering an area, which will help to improve public health and wellbeing. In May 2021, the regulations to give local authorities detailed powers under the Transport (Scotland) Act 2019 to create and enforce LEZs became law.
- 4.17 The Scottish Government and four of the Scottish cities (Aberdeen, Dundee, Edinburgh and Glasgow) have agreed an indicative timeline to implement LEZs by Spring 2022, taking account of the impact of the COVID-19 pandemic. LEZs will be operational once agreed grace periods have expired. A grace period of two years is proposed for Edinburgh's LEZ scheme, which means that, subject to approval, enforcement of the LEZ will commence in Spring 2024.
- 4.18 The Council's preferred scheme is currently undergoing a period of public consultation before final approval is sought and formal notice is provided to all consultees prior to implementation in 2022. During the consultation period it is intended that engagement with key stakeholder groups including members of the taxi and PHC trade will take place.

### Age and Emission Update

- 4.19 There are currently 1,308 licensed taxis in Edinburgh and 2,331 PHCs.
- 4.20 Approximately 1,327 vehicles have already been upgraded to meet the new conditions. It is anticipated that approximately 270 vehicles will be required to be upgraded over the next 12 months, as a result of the policy changes due to take effect.
- 4.21 The next policy milestones will take effect from 1 September 2021 having been delayed from 1 April 2021:
  - 4.21.1 For existing vehicles, no application will be accepted for licensing a taxi or PHC or as a replacement vehicle for an existing taxi or PHC if it is more than 10 years old (from the date of first registration); and

- 4.21.2 For vehicles not currently licensed, no vehicle will be accepted for licensing as a taxi or PHC or as a replacement vehicle for an existing taxi or PHC unless it is a Euro 6.
- 4.22 The last milestone that is due to take effect is on 1 April 2022, when:
  - 4.22.1 No taxi or PHC will thereafter be accepted for test unless it is Euro 6 or above. Separately to this requirement, any Euro 5 Taxi or PHC that has passed its test and is licensed prior to 1 April 2022 may continue to be operated until its licence expires, or 31 March 2023 - whichever date is earliest.
- 4.23 Recognising the challenges faced by both the taxi and PHC as a result of the pandemic, it is proposed that the milestones detailed at paragraph 4.20 should be extended to take effect from 1 April 2022. In addition, it is proposed that the milestone detailed at paragraph 4.21 that is due to take effect on 1 April 2022 should also be extended to 1 April 2023.
- 4.24 These changes to policy would:
  - 4.24.1 Allow licence holders to purchase Euro 5 vehicles, which are not already part of the City of Edinburgh licensed fleet, for an extended period up until 1 April 2022;
  - 4.24.2 Potentially assist members of the trade who want to convert vehicles and engines to LPG; and
  - 4.24.3 Enable licence holders to retain vehicles for an additional six month period prior to having to replace their existing vehicles.
- 4.25 Any extension to the Age and Emission timeline must take into account the LEZ implementation timelines, particularly the intention that enforcement of the LEZ will, subject to approval, commence in Spring 2024. The very latest date that any extension to the Regulatory Committee Age and Emissions Policy taking effect would therefore be 1 April 2023. This means that the hire car fleet will be required to be Euro 6 compliant by Spring 2024, or they will be unable to operate within the LEZ designated areas within the city.

### **Exemption from Policy**

4.26 The Committee is asked to note that the position remains unchanged in that any applicant for either the grant or renewal of a taxi or PHC licence may request that a standard condition should be disapplied in relation to his/her licence. Where an applicant seeks an exemption from the standard conditions in relation to either the age limitation or emission standards, such applications will be referred to the Committee for determination on a case-by-case basis, and it will be for individual applicants to set out their position as to why the conditions should not be applied. In any such case, were an applicant's request for exemption to be refused then the applicant would be entitled to appeal the Committee's decision to the Sheriff.

# 5. Next Steps

5.1 Council officers will monitor the implementation of the policy and will provide a further update in 12 months.

# 6. Financial impact

- 6.1 Overall the change to conditions will not create any additional costs to the Council budget. The mitigation measures previously agreed (allowing any operator who applies to change their vehicle without paying the normal change of vehicle variation fee) are estimated at £60,000 over four years. This will be contained within the licensing budget.
- 6.2 Any further costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.

# 7. Stakeholder/Community Impact

- 7.1 The development of policy in respect of the licensing of taxis and private hire cars is part of the wider policy-making role for the Council. It is essential that all strategic aims of the Council are considered, and that where appropriate the taxi and private hire car licensing policy is consistent with these aims.
- 7.2 Air Quality Management Areas have been declared at five areas across the city where air quality assessment has identified that UK air quality objectives are not being met.
- 7.3 This policy will reduce the carbon footprint of the taxi and private hire car trade within the city and will contribute to the Council's Sustainable Energy Action Plan to reduce carbon emissions across the city.
- 7.4 The contents and recommendations neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.
- 7.5 The contents and recommendations described in this report do not deliver any outcomes relating to the ten areas of rights, nor do they enhance or infringe them.
- 7.6 As a result of Covid-19, Council officers' regular meetings with trade representatives were affected. Meetings have now resumed, and officers met with members of the trade on 1 March 2021, 14 May 2021, and 20 August 2021.

# 8. Background reading/external references

8.1 None.

# 9. Appendices

- 9.1 Appendix 1 Taxi and Private Hire Cars Age Limitation and Emission Standards (new policy agreed by the Regulatory Committee on 16 March 2018)
- 9.2 Appendix 2 Licensing Conditions
- 9.3 Appendix 3 Correspondence from Les McVay (Secretary City Cabs) and supporting documentation from the Energy Savings Trust

Taxi and Private Hire Cars Age Limitation and Emission Standards Policy.

# Taxi or PHC licensed by the City of Edinburgh Council Age Limit

- 1. **Effective 30 September 2021** there will be an Age Limit applied to Taxis and Private Hire Cars (PHC) licensed by the City of Edinburgh Council, Subject to meeting normal conditions about roadworthiness, a taxi and PHC can be submitted for test prior to the 10<sup>th</sup> anniversary of its registration for renewal of licence and can continue to operate until the expiry of that licence period.
- 2. Effective 30 September 2021 Any Taxi or PHC which is converted to LPG will be an exception to the above age limit and allowed an additional 4 years of operation. Subject to meeting normal conditions about roadworthiness and 6 monthly compliance test from the vehicles 10<sup>th</sup> anniversary this will allow a vehicle to be submitted for test prior to the 14<sup>th</sup> anniversary of its registration for renewal of licence and can continue to operate until the expiry of that licence period
- 3. **Effective 30 September 2021** to allow any Electric Taxi or PHC, which is not a hybrid vehicle, to be an exception to the 10 year age limit and allow an additional <u>4 years of operation</u>. Subject to meeting normal conditions about roadworthiness and 6 monthly compliance test from the vehicles 10<sup>th</sup> anniversary this will allow a vehicle to be submitted for test prior to the 14<sup>th</sup> anniversary of its registration for renewal of licence and can continue to operate until the expiry of that licence period

In addition to vehicles requiring to meet the above age limits, the emission standards set out below will also apply with the relevant date for both age limitation and emission standards being the earliest date applicable in either category.

# **Emission Standards**

- 4. **Effective 1 April 2019** no Taxi or PHC will thereafter be accepted for test unless it is Euro 5 or above. Any Euro 0-4 Taxi or PHC which has passed its test and is licensed prior to 1 April 2019 may continue to be operated until its licence expires or **31 March 2020** whichever date is earliest.
- 5. **Effective 1 April 2022** no Taxi or PHC will thereafter be accepted for test unless it is Euro 6 or above. Separately to this requirement, any Euro 5 Taxi or PHC that has passed its test and is licensed prior to 1 April 2022 may continue to be operated until its licence expires or **31 March 2023** whichever date is earliest.

# Taxi or PHC not currently licensed by the City of Edinburgh Council

- 6. **Effective 7 May 2018**, no vehicle will be accepted for licensing as a Taxi or PHC or as a replacement vehicle for an existing Taxi or PHC licence unless it is either Euro 5 or 6.
- 7. **Thereafter effective 30 September 2021** no Taxi or PHC will be accepted for licensing as a Taxi or PHC or as a replacement vehicle for an existing Taxi or PHC licence unless it is a Euro 6.

### **Electric Vehicles**

8. Any Electric Taxi or PHC, which is not a hybrid vehicle, to be an exception to the 10 year age limit and allow an additional <u>4 years of operation</u>. Subject to meeting normal conditions about roadworthiness and 6 monthly compliance test from the vehicles 10<sup>th</sup> anniversary this will allow a vehicle to be submitted for test prior to the 14<sup>th</sup> anniversary of its registration for renewal of licence and can continue to operate until the expiry of that licence period.

# **Hybrid Vehicles**

- 9. Hybrid cars have electric elements to their powertrains but cannot be considered 'electric cars' due to the presence of a petrol engine. The term 'hybrid' is technically quite vague, but in the context of cars almost always refers to a petrol-electric powertrain. This means the car uses a combination of electricity stored in batteries and petrol stored in a tank to propel the car forward.
- 10. Hybrid cars at time of manufacture / registration all have a Euro rating which reflects the vehicles emissions level.

### **LPG Vehicles**

- 11. Prior to 2018 licensing conditions prevented the use of LPG vehicles and they had never previously been considered appropriate for licensing. All application to convert existing will be referred to committee for consideration.
- 12. Any existing vehicle licenced by CEC can be converted to LPG provided that the following can be shown by the operator and that any modification is carried out at the owner's risk:
  - a. It is assessed as safe by the Taxi Examiners;
  - b. it is accompanied by an approval certificate obtained from DVSA; and
  - c. after such conversion subject to meeting normal conditions about roadworthiness and 6 monthly compliance test from the vehicles 10<sup>th</sup> anniversary this will allow a vehicle to be submitted for test prior to the 14<sup>th</sup> anniversary of its registration for renewal of licence and can continue to operate until the expiry of that licence period.

## Retro Fit / Replacement engines

- 13. any existing vehicle licenced by CEC can be adapted to Euro 6 provided that the following can be shown by the operator and that any modification is carried out at the owner's risk:
  - a. It is assessed as safe by the Taxi Examiners:
  - b. it is accompanied by an approval certificate obtained from DVSA.
- 14. In more general term just because a vehicle has been converted does not mean that its Euro 6 will change. DVSA advise that there is no mechanism to reclassify a vehicles Euro once a vehicle is given a euro classification it will always have this and the V5 vehicle registration document cannot be changed in that regard. The Euro rating once issued remains with the vehicle for life.
- 15. All application to convert existing will be referred to committee for consideration.

#### After market devices

16. There are a number of aftermarket devices and fuel additives that manufacturers claim can improve fuel economy and/or reduce exhaust emissions. The majority if not all aftermarket devices require ongoing maintenance and do not provide a permanent or fixed solution to emissions accordingly they have not been included within the policy and any application submitted would be dealt with on a case by case basis.

Any applicant for either the grant or renewal of a taxi or PHC licence may request that a standard condition be disapplied in relation to his/her licence. Where an applicant seeks an exemption from the standard conditions in relation to either the age limitation or emission standards then such applications will be referred to Committee for determination on a case-by-case basis and it will be for individual applicants to set out their position as to why the conditions should not be applied. In any such case, were an applicant's requests for exemption to be refused then the applicant will be entitled to appeal the Committee's decision to the Sheriff.

## **Retirement policy**

- 17. Owners seeking an exemption to policy on the basis of retirement can be dealt with by council officer under delegated authority and given an exemption of up to a maximum period of 1 year dependant on circumstance.
  - a. Owners would have to provide a written declaration that it was their intention to retire and the intended date of retirement.
  - b. Only one exemption can be dealt with under delegated authority
- 18. It is acknowledged that circumstance can change and any change to retirement plans would be referred to committee for further consideration. In addition, any evidence of bad faith would also be referred to committee with an immediate request to vary terms of the licence and it may also be considered in context of an owner's suitability in terms of the fit and proper test.

#### **Licensing Conditions**

Condition 256:

Licensed Vehicles in Edinburgh must be a motor vehicle of a type or model which holds a valid European Whole Vehicle Type Approval as an M1 vehicle, is purpose built for use as a Licensed Vehicle and must comply in all respects with the requirements of any Acts and Regulations relating to motor vehicles.

#### In addition to the above: -

From **7 May 2018** any motor vehicle to be licensed in respect of a new taxi licence or replacement vehicle under an existing taxi licence will require to be a Euro 5 or 6 taxi vehicle.

From **1 April 2019** any motor vehicle to be submitted for test in respect of either a new or existing taxi licence will require to be (or exceed) a Euro 5 taxi vehicle. Any Euro 0-4 taxi vehicle licensed as a taxi prior to 1 April 2019 may continue to operate until that licence expires or 31 March 2020 whichever date is earliest.

From **30 September 2021** any motor vehicle to be licensed in respect of a new taxi licence or a replacement vehicle under an existing taxi licence will require to be Euro 6 taxi vehicle.

From **30 September 2021** all Licensed Vehicles must be less than 11 years old from the date of first registration (other than a Licensed Vehicle which is an Electric Vehicle or has been converted to LPG). A Licensed Vehicle submitted for test in respect of renewal of a taxi licence prior to the 10<sup>th</sup> anniversary of its registration may continue to operate as a taxi until the expiry of the licence period following upon renewal of such licence. A Licensed Vehicle which has been converted to LPG submitted for test in respect of renewal of a taxi licence prior to the 14<sup>th</sup> anniversary of its registration may continue to operate as a taxi until the expiry of the licence period following upon renewal of such licence.

From **1 April 2022** any motor vehicle to be submitted for test in respect of either a new or existing taxi licence will require to be (or exceed) a Euro 6 taxi vehicle. Any Euro 5 taxi vehicle licensed as a taxi prior to 1 April 2022 may continue to operate until that licence expires or 31 March 2023 whichever date is earliest.

#### Condition 303:

Licensed Vehicles in Edinburgh must be a motor vehicle of a type or model which holds a valid European Whole Vehicle Type Approval and must comply in all respects with the requirements of any Acts and Regulations relating to motor vehicles.

#### In addition to the above:

From **7 May 2018** any motor vehicle to be licensed in respect of a new PHC licence or replacement vehicle under an existing PHC licence will require to be a Euro 5 or 6 vehicle.

From **1 April 2019** any motor vehicle to be submitted for test in respect of either a new or existing PHC licence will require to be (or exceed) a Euro 5 vehicle. Any Euro 0-4 vehicle licensed as a PHC prior to 1 April 2019 may continue to operate until that licence expires or 31 March 2020 whichever date is earliest.

From **30 September 2021** any motor vehicle to be licensed in respect of a new PHC licence or a replacement vehicle under an existing PHC licence will require to be a Euro 6 vehicle.

From **30 September 2021** all Licensed Vehicles, other than a Licensed Vehicle which is an Electric Vehicle or has been converted to LPG, must be less than 11 years old from the date of first registration. A Licensed Vehicle submitted for test in respect of renewal of a PHC licence prior to the 10<sup>th</sup> anniversary of its registration may continue to operate as a PHC until the expiry of the licence period following upon renewal of such licence. A Licensed Vehicle which has been converted to LPG and submitted for test in respect of renewal of a PHC licence prior to the 14<sup>th</sup> anniversary of its registration may continue to operate as a PHC until the expiry of the licence period following upon renewal of such licence.

From **1 April 2022** any motor vehicle to be submitted for test in respect of either a new or existing PHC licence will require to be (or exceed) a Euro 6 vehicle. Any Euro 5 vehicle licensed as a PHC prior to 1 April 2022 may continue to operate until that licence expires or 31 March 2023 whichever date is earliest.

#### Appendix 3 –

From: Les McVay

**Sent:** 20 January 2021 12:58

**To:** 'andrew.mitchell

Cc: 'cathy.fullerton; 'cameron.rose; 'neil.ross

Subject: Euro 6 Retrofit

Hi Andrew.

I hope this finds you well and sane during these crazy times we are all going through.

As you know the taxi trade, like many other businesses, is struggling.

City Cabs would like to put a proposal forward to the Regulatory Committee for their consideration at their next meeting concerning the newly approved Euro 6 Retrofit. Could you please advise how we do this during these extraordinary times we find ourselves in.

Please find attached the technical brochure for the HJS SCR retrofit for vans, taxis and light commercials.

This product is fully approved under the Energy Saving Trust CVRAS accreditation (Clean Vehicle Retrofit Approval Scheme). The link to the main page can be found here:

https://energysavingtrust.org.uk/service/clean-vehicle-retrofit-accreditation-scheme/

CVRAS-approved retrofit technologies are now widely accepted across Clean Air Zones in the UK. The rigorous testing and continuous performance monitoring required by Energy Saving Trust is unsurpassed and ensures 'better than Euro 6' NOx reduction performance across all drive cycles.

This Retrofit has already been approved in many cities London, Glasgow, Coventry, Birmingham, and Bath.

I hope this gives you some of the information you may need. Transport Scotland have also given their support to this conversion. There isn't a UK city that hasn't accepted CVRAS approved products for its own Clean Air Zones.

The retrofitting of Euro 5 vehicles is a welcome solution for many licence holders facing bankruptcy already.

Nobody can disagree with the benefits of clean air in the city. If this can be achieved sustainably and affordably, this would certainly help our trade through the troubling financial situation we now find ourselves.

would be very grateful if you could give this your attention as soon as possible.

Les McVay Company Secretary 1 Atholl Place, Edinburgh, EH3 8HP

**Tel:** 0131 228 7936 **Web:** www.citycabs.co.uk



From: Les McVay <les.mcvay@citycabs.co.uk>

**Sent:** 28 May 2021 14:53

**To:** Cathy Fullerton; Denis Dixon; Cameron Rose; Joanna Mowat; Max Mitchell; Neil Ross; Susan Rae; Donald Wilson; Scott Arthur; Catherine Scanlin; Andrew Mitchell; Catherine

Scanlin; Gordon Hunter **Subject:** Euro 6 Retrofit

**Dear Councillor** 

I am contacting you in connection with the topic that was discussed at last weeks Regulatory Committee meeting.

The Councillors in attendance agreed to ask the Council Officers to formulate a report regarding the proposal that a Euro6 retrofit scheme can progress to the next Regulatory meeting for the Councillors consideration.

I have enclosed a little bit more information regarding this scheme, and I again refer you and the council officers to the approval of Transport Scotland and the Energy Savings Trust for this scheme.

If I can be of any further assistance regarding this, please let me know.

The Energy Savings Trust is allocating the grant funding for this scheme and, as you can imagine, is proving very popular in the other cities where this grant is available. It would be great if the licence holders in Edinburgh could be allowed to take advantage of this scheme.

#### **Factsheet**

- The HJS SCR Retrofit is suitable for Euro 5 engines, typically vehicles manufactured between 2011 and 2016. The retrofit conversion lifts vehicle emissions levels to Euro 6.
- It does not modify or alter the original engine it is an exhaust after-treatment system that introduces a Diesel Emissions Fluid (DEF), more commonly known as AdBlue.
- (Note that all new Euro 6 diesel vehicles are fitted with this same technology)
- The retrofit conversion is fully accredited in Germany for use in European Low Emission Zones. It is also accredited by Energy Saving Trust for use across UK ULEZ's and CAZ's.
- The Energy Saving Trust publishes a list of approved retrofit solutions. This is known as the CVRAS approval (Clean Vehicle Retrofit Accreditation Scheme). The scheme demands product testing which exceeds the requirements of the original Euro 6 test protocol. This ensures optimum performance under all duty cycles, including the typically low duty cycle of Taxis.

#### Resources

Link to EST CVRAS Approved Devices:

https://energysavingtrust.org.uk/wp-content/uploads/2020/10/20210426CVRAS-Approved-Devices-Open-List-Version-35.pdf

## **Attachments**

- Cybrand CVRAS Approval Certificate
- HJS SCR02 Product Approval Certificate
- Generic product technical guide
- Images of the product installed on a Euro 5 Vito Taxi

Les McVay Company Secretary 1 Atholl Place, Edinburgh, EH3 8HP

**Tel:** 0131 228 7936 **Web:** www.citycabs.co.uk







Jerry Darlington | 05.03.2021



Think about tomorrow.



# HJS SCR Retrofit System Concept

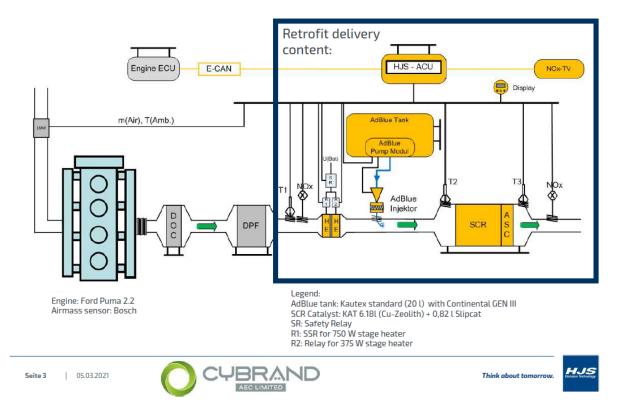
- System developed in conjunction with Cybrand AEC Ltd, UK Development Partner
- Independent retrofit SCR system → no impact on engine control unit
- OE quality SCR catalytic coatings utilised
- HJS ACU as control unit as used in several OE manufactured systems
- AdBlue dosing strategy is based on sensor signals (temperature, NOx) directly measured in exhaust flow and additional data from engine CAN (engine speed)
- Modular system design for simplified professional installation
- Heating element (thermal management) installed to ensure performance at low operating temperatures



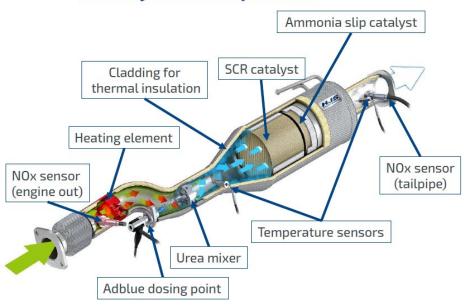
Think about tomorrow.



# **SCR System Layout**



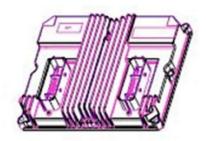
# **Main System Components**





# **Adblue Tank and Control Unit**





After-treatment Control Unit (ACU)

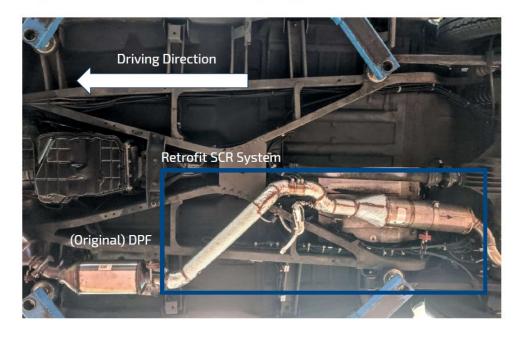
Seite 5 | 05.03.2021



Think about tomorrow.



# System Installation (example only)



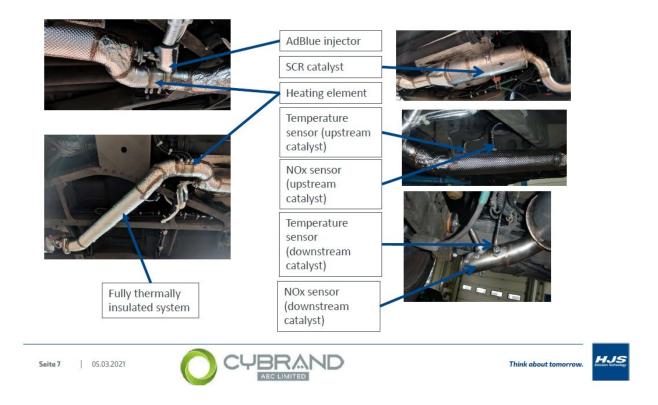
Seite 6 05.03.2021



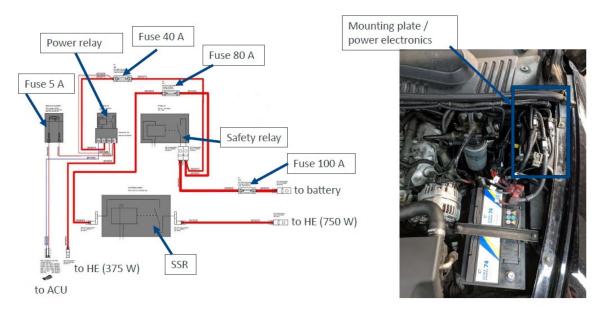
hink about tomorrow.



# **Typical Component Location and Identification**



# Electronic Components; Location and Wiring (example)



Seite 8 | 05.03.2021 CYBRAND

ABOULDMITED

# System Diagnostics – Messages on HJS Display 🥽



- 1. No errors: AdBlue quality and level are OK => HJS SCR System text displayed
- 2. Emission relevant error => Service text displayed
- 3. AdBlue level low => Service, Range xxxx and Refill xx l text displayed
- 4. AdBlue quality poor => Replace DEF (Diesel Emission Fluid) text displayed





Seite 9 05.03.2021



Think about tomorrow



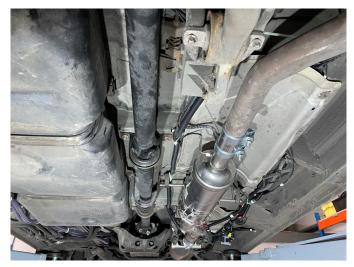


Jerry Darlington | 05.03.2021



Think about tomorrow.











# **Energy Saving Trust**

hereby certifies that the following products:

#### HJS SCR02

Supplied by: Cybrand AEC Limited under CVRAS company approval number CN-2001

are certified under the requirements of the Clean Vehicle Retrofit Accreditation Scheme (CVRAS), delivered in partnership with the Low Carbon Vehicle Partnership (LowCVP).

CVRAS Product Number: CVRAS-P-1201-02 Certificate Number: CVRAS-PCERT-29

Valid from : 01.12.2020 Valid until\*: 30.11.2021 Issue date : 01.12.2020

Refer to <u>www.energysavingtrust.org.uk/CVRAS</u> for listing of approved vehicle applications for this product

Signed /

Programme Manager, Transport

On behalf of Energy Saving Trust Enterprises Limited

Date: 01.12.2020

\*This certificate is valid only while the above supplier retains its CVRAS/NRMM Approved Company Status

Delivered in partnership with



Supported by





This certificate remains the property of Energy Saving Trust Enterprises Limited and shall be returned immediately on request.

To check validity telephone +44 (0) 20 7222 0101 or visit <a href="www.energysavingtrust.org.uk">www.energysavingtrust.org.uk</a> Further clarification regarding the scope of this certification maybe obtained by consulting the organisation.

Energy Saving Trust Enterprises Limited Registered Office: 30 North Colonnade, Canary Wharf, London, E14 5GP Registered in England and Wales. No. 07805748



# **Energy Saving Trust**

hereby certifies that the organisation

Cybrand AEC Limited
Thornton Science Park, Ince, Chester, CH2 4NU

is certified under the requirements of the Clean Vehicle Retrofit Accreditation Scheme, delivered in collaboration with the Low Carbon Vehicle Partnership (LowCVP) and Energy Saving Trust Non-Road Mobile Machinery Retrofit Accreditation Scheme (NRMM RAS) requirements.

CVRAS & NRMM Company Number: CN2001

Certificate Number: CCERT63
Valid from: 01:12:2020
Valid until: 30:11:2021
Issue date: 01:12:2020

Signed:

Programme Manager, Transport On behalf of Energy Saving Trust Enterprises Limited

Date: 01.12.2020

#### Hi Gordon

Thank you for your time today. Please see attached the current CVRAS accredited solution brochure, you will find the WAV taxis on pg4 for the Mercedes Vito and pg9 for TX models.

I will reach out to my colleague on the CVRAS programme to check on the Mercedes M8 model and an update on the Peugeot testing.

If you have any other questions, please let me know

#### Many thanks

#### Ceit Skinner

#### Ceit Skinner Assistant Programme Manager **Energy Saving Trust** Direct +44 1315 559149

Reception +44 (0)131 555 7900 energysavingtrust.org.uk

> energy saving trust

Love your home, protect your world Be part of a positive change. Be part of net zero.



I have spoken with Cybrand the UK installer of HJS' exhaust retrofit system, you are correct that the Mercedes Vito solution is also usable in the Mercedes M8, being the alternative model name. Apologies for any confusion caused.

#### Ceit Skinner

#### Ceit Skinner Assistant Programme Manager Energy Saving Trust Direct +44 1315 559149

Reception +44 (0)131 555 7900 energysavingtrust.org.uk



Love your home, protect your world Be part of a positive change. Be part of net zero.



From: Gordon Hunter < Gordon. Hunter@edinburgh.gov.uk > Sent: 18 May 2021 13:07

To: Ceit Skinner < Ceit.Skinner@est.org.uk > Subject: RE: Taxi Exhaust Retrofit Solutions

# Regulatory Committee

# 09.30am, Monday, 23 August 2021

# **Landlord Registration – Previous Convictions**

Executive/routine
Wards All
Council Commitments

#### 1. Recommendations

- 1.1 It is recommended that the Regulatory Committee:
  - 1.1.1 Notes the contents of this report and the revised process for considering fitness of landlords to be entered onto the register.

#### **Paul Lawrence**

**Executive Director of Place** 

Contact: Andrew Mitchell, Regulatory Services Manager

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4042



# Report

# **Landlord Registration – Previous Convictions**

# 2. Executive Summary

- 2.1 This report briefs members on the process for checking the previous convictions of applicants who wish to be included on the Register of Landlords, and explains that this process differs from standard licence applications
- 2.2 The relevant legislation has changed, meaning that a more limited number of convictions may now be taken into account by the Council when deciding whether a landlord is fit and proper to enter the register.
- 2.3 Members should note that this does not change the existing process for the Committee's consideration of applications.

## 3. Background

- 3.1 Landlord Registration was introduced in 2006 under the Antisocial Behaviour etc. (Scotland) Act 2004. Subject to some statutory exceptions, it requires landlords of let properties and Houses of Multiple Occupancy to register with their local authority. The registered person is required to be a fit and proper person. The matters to which the local authority must have regard in considering whether a registered landlord is a fit and proper person are laid out in the Antisocial Behaviour etc. (Scotland) Act 2004.
- 3.2 The Act provides that the Committee must have regard to certain material including whether the landlord has contravened any provision of the law relating to housing, or landlord and tenant law. The actions of the landlord in relation to any antisocial behaviour affecting a house which they let or manage must also be taken into account.
- 3.3 As part of the registration process, applicants are asked to disclose relevant criminal convictions. Consideration must be given to any material that shows that the applicant has committed any offence involving:
  - Fraud or other dishonesty;
  - Violence;
  - Drugs;

- Discrimination;
- Firearms (within the meaning of section 57(1) of the Firearms Act 1968); or that the applicant has
- Committed a sexual offence (within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995.
- 3.4 The Rehabilitation of Offenders Act 1974 ('the 1974 Act') and associated legislation provide that spent convictions and 'protected spent convictions' may not be referred to.
- 3.5 The 1974 Act provides that if a local authority is satisfied, taking into account relevant considerations such as evidence already before it, that justice cannot be done except by requiring evidence relating to a person's spent convictions then this information may be required and considered. There is an established 'two step' process for determining whether or not such information should be heard. It is generally accepted that this provision could allow such convictions to be taken into consideration.

### 4. Main report

- 4.1 There are currently 57,484 registered landlords in the city. Over the last year 240 applicants have declared convictions. In the majority of these applications the convictions declared are not relevant to any of the criteria covered within 3.2 and 3.3 of this report, and therefore had no bearing on the applicant's fitness and propriety to be a landlord.
- 4.2 If a landlord declares a conviction the application is assessed by officers within the Directorate, in line with the Antisocial Behaviour etc. (Scotland) Act 2004 and the associated statutory guidance.
  - 4.2.1 Where the offences do not have an impact on the fitness and propriety of the applicant to act as a registered landlord for example drink driving or other crimes not outlined in 3.4 above these applications will normally be approved and the landlord entered into the register.
  - 4.2.2 Where the offence/s may have an impact on the fitness and propriety of the applicant to act as a registered landlord for example assault/drugs/sexual offences the applications will be assessed by a panel consisting of the Regulatory Managers for Licensing and Trading Standards and Enforcement.
- 4.3 Thereafter for convictions which are relevant the Directorate will request that Police Scotland provides relevant details for Committee consideration. Police Scotland then provides the City of Edinburgh with a letter disclosing the details of the offences that an applicant has been convicted of, provided the convictions are within the disclosure periods set out in the 1974 Act.
- 4.4 After taking the offence/s into consideration, a decision will be made regarding whether or not the application should be granted or alternatively should be brought

before the Licensing Sub-Committee so that it can hear details of the offence/s and hear from Council Officers, Police Scotland and the applicant or their representative. The Committee will then decide whether the applicant is fit and proper to be a registered landlord in Edinburgh.

#### Changes to the legislation

- 4.5 In November 2020 the disclosure periods for most offences in Scotland were reduced as a result of amendment to the 1974 Act. For example, prior to the change a fine had to be disclosed for up to five years after conviction. As a result of the change a fine must now only be disclosed up to a year after the conviction.
- 4.6 Correspondence from Police Scotland (Appendix 1) confirms that only details of disclosed convictions which fall within the newly reduced disclosure periods may now be supplied to the Council with respect to applications for landlord registration.
- 4.7 Therefore, taking into account the changes to the legislation and the correspondence from Police Scotland, the following process will now be used to determine whether or not to bring an applicant before the Licensing Sub Committee for determination of whether or not the applicant is fit and proper.
  - 4.7.1 An application for landlord registration will generally only be referred to the Licensing Sub Committee where Police Scotland have provided a letter detailing previous convictions upon request;
  - 4.7.2 If an applicant has provided details of a protected spent conviction in error, this information should be disregarded and such applications will not be referred to Committee
  - 4.7.3 If the Council is aware of relevant information from other sources relating to the matters described in 3.2 and 3.3 above, the application may be referred to the Committee.
- 4.8 The Committee and the city's tenants may be reassured that the vast majority of registered landlords have no relevant convictions to disclose, and that often any convictions which do exist have no bearing on the applicant's fitness and propriety to be a landlord. Regardless of convictions, should landlords fail to fulfil their legal responsibilities to their tenants, the Licensing Enforcement team and Police have relevant powers to take appropriate enforcement action. This may include seeking the removal of the landlord from the Register of Landlords.

# 5. Financial impact

5.1 Any costs implementing policy changes will be contained within the current ringfenced income generated from licence application fees.

## 6. Stakeholder/Community Impact

- 6.1 The development of policy in respect of the registration of landlords is part of the wider policy-making role for the Council.
- 6.2 The contents and recommendations neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.
- 6.3 The contents and recommendations described in this report do not deliver any outcomes relating to the ten areas of rights, nor do they enhance or infringe them.

## 7. Background reading/external references

7.1 Landlord registration: Statutory guidance for local authorities

# 8. Appendices

8.1 Appendix 1 – Police Scotland Letter dated 4 June 2021: Introduction of the Management of Offenders (Scotland) Act 2019.

#### Appendix 1

04/06/21

Convener Licensing Sub Committee
City of Edinburgh Council
249 High Street
EDINBURGH
EH1 1YJ



Marc Copland Sergeant

Liquor and Civic Licensing
St Leonards Police Station
14 St Leonards Street
Edinburgh
EH8 9QW

Dear Ma'am,

# INTRODUCTION OF THE MANAGEMENT OF OFFENDER (SCOTLAND) ACT 2019, AND ITS IMPACT ON REHABILITATION OF OFFENDERS ACT 1974 IN RELATION TO MATTERS REGULATED BY LICENSING SUB-COMMITTEE

#### Introduction

The Rehabilitation of Offenders Act 1974 primarily exists to support the rehabilitation into employment of reformed offenders. Following a specified time, which varies according to the disposal administered or sentence passed, convictions become considered 'protected'. This means the person does not require to disclose the conviction on applications for a job, or specifically for the purposes of the Licensing Sub Committee, on an application for a licence. There are however, some exceptions to that, depending on the sentence given, and the type of licence applied for.

The following is provided to members of The Licensing Sub Committee for their information in relation to the legislative measures placed upon Police Scotland when disclosing convictions of applicants and licence holders in order to assist in the Committee's decision as to whether they meet the 'fit and proper person' test.

#### Information

On 30<sup>th</sup> November 2020, The Management of Offenders (Scotland) Act 2019 amended the Rehabilitation of Offenders Act 1974 to reduce disclosure periods for the vast majority of sentences issued by courts in Scotland, in order to assist convicted persons, who do not re-offend, to move on with their lives as if the conviction did not exist. This is considered a 'protected conviction'. The tables below illustrate the new disclosure periods for sentences issued in Scotland.

Table A: Rehabilitation periods for custodial sentences and community sentences

Sentence/disposal	Rehabilitation period for adults (aged 18 and over when convicted) from end of sentence including licence period	Rehabilitation period for young people (aged under 18 when convicted) from end of sentence including licence period
Community order or youth rehabilitation order+	Total length of order plus 1 year	Total length of order plus 6 months
Prison sentence or detention in a young offender institution for 6 months or less	Total length of sentence (including licence period) plus 2 years	Total length of sentence (including licence period) plus 18 months
Prison sentence or detention in a young offender institution for over 6 months and up to and including 30 months (2½ years)	Total length of sentence (including licence period) plus 4 years	Total length of sentence (including licence period) plus 2 years
Prison sentence or detention in a young offender institution for over 30 months (2½ years) and up to 48 months (4 years)	Total length of sentence (including licence period) plus 7 years	Total length of sentence (including licence period) plus $3\frac{1}{2}$ years
Imprisonment or detention in a young offender institution	Never spent	Never spent

Sentence/disposal	Rehabilitation period for adults (aged 18 and over when convicted) from end of sentence including licence period	Rehabilitation period for young people (aged under 18 when convicted) from end of sentence including licence period
for over 48 months (4 years) or a public protection sentence		

(NACRO, 2021)

Table B: Rehabilitation periods which do not have buffer periods so start from the date of conviction

Sentence/disposal	Rehabilitation period for adults (aged 18 or over at the time of conviction or at the time the disposal is administered)	Rehabilitation period for young people (aged under 18 at the time of conviction or at the time the disposal is administered)
Simple caution/youth caution++	Spent immediately	Spent immediately
Conditional caution/ youth conditional caution	3 months or when caution ceases to have effect if earlier	3 months or when caution ceases to have effect if earlier
Absolute discharge	Spent immediately	Spent immediately
Bind over	At the end of the order	At the end of the order
Conditional discharge order	At the end of the order	At the end of the order

Sentence/disposal	Rehabilitation period for adults (aged 18 or over at the time of conviction or at the time the disposal is administered)	Rehabilitation period for young people (aged under 18 at the time of conviction or at the time the disposal is administered)
Fine+++	1 year	6 months
Compensation order+++	When paid in full	When paid in full
Attendance centre order	At the end of the order	At the end of the order
Care order	When order ceases to have effect	When order ceases to have effect
Confiscation order	When order ceases to have effect	When order ceases to have effect
Forfeiture order	When order ceases to have effect	When order ceases to have effect
Hospital order	When order ceases to have effect	When order ceases to have effect
Referral order	At the end of the order	At the end of the order
Relevant order++++	When order ceases to have effect	When order ceases to have effect
Reparation order	Spent immediately	Spent immediately
Disqualifications	When order ceases to have effect	When order ceases to have effect
Endorsements	5 years	2½ years

**Table C: Alternatives to Prosecution** 

Sentence/disposal	Buffer period for adults (aged 18 and over when convicted) from end of sentence including licence period	Buffer period for young people (aged under 18 when convicted) from end of sentence including licence period
Category 1 AtPs*	Spent immediately	Spent immediately
Category 2 AtPs	3 months	3 months

<sup>\*</sup>Category 1 AtPs are warnings given by a constable or a procurator fiscal and fixed penalty notices given under s. 129 of the Antisocial Behaviour (Scotland) Act 2004. All others are Category 2 AtPs.

(NACRO, 2021)

#### **Exclusions and Exemptions**

Exclusions and exemptions in legislation allow the police to protect the public and most vulnerable by ensuring that we furnish the Licensing Committee with a complete picture of an individual's suitability to hold certain licenses. However, please note that the exclusions and exemptions apply only to Taxi and Private Hire Licenses.

Therefore, in relation to any other licence application governed by Civic Government (Scotland) Act 1982, Police Scotland cannot lawfully disclose a protected conviction.

There are no exclusions or exemptions permitted under any legislation relating to Landlord Registration, or HMO Licensing. Therefore, for those applications, Police Scotland can

again only disclose un-protected convictions to the Committee to assist them in their decision making process.

The disclosure of a conviction by an applicant that, upon review by Police Licensing, is actually considered protected, still cannot be legally disclosed by the Police, despite the applicant's initial disclosure on an application form.

#### **Sexual Offences**

It may be pertinent to note that Rehabilitation of Offenders Act is also relevant to offences considered 'sexual offences'. If a person is placed on the Sex Offenders Register, this is not considered as a 'relevant order' referred to in Table 3, therefore the disclosure of sexual offences are subject to the same protections given by the act. For example, if a person is convicted of a 'sexual offence' and sentenced to a fine, and placed on the Sex Offender's Register for 2 years, the offence becomes protected after 1 year, as that is the disclosure period for a fine. Therefore, an applicant can be on the Sex Offenders Register, but have no disclosable convictions. There is no legislation that requires applicants to disclose registration requirements of this nature.

#### **Liquor Licensing**

Whilst I appreciate liquor licensing does not fall under the remit of the Licensing Sub-Committee, for your information, due to legislation contained within Licensing (Scotland) Act 2005, the new disclosure periods do not apply to liquor licensing at this time. Further legislation is required to enable this change to take effect for liquor licensing and therefore the previous disclosure periods still apply.

#### Conclusion

Edinburgh's Police Licensing Department will continue to work closely with City of Edinburgh Council Licensing Department and Licensing Sub Committee however, we must strictly adhere to relevant legislation when disclosing information. Failure to do so may be an offence under Data Protection Act.

I can also report that a robust and thorough regime remains in place between Police and Council Licensing Departments, to assess all applications and ensure relevant and accurate information is provided timeously to the Committee to assist in the decision making process in relation to the 'fit and proper person' test.

I hope the above information is of use in informing the Committee of possible reasons in a reduction in Police representations outlining convictions, as well as explaining why, in some cases, Police will not comment on a conviction, despite the applicant disclosing it.

Reported for your information.

Yours faithfully

Sgt Marc Copland

Liquor and Civic Licensing Dept.

# Edinburgh Division

For enquiries please contact the Licensing Department on 0131 662 5752.

# **Regulatory Committee**

# 9.30am, Monday, 23 August 2021

# **Houses in Multiple Occupation – Service Update**

Executive/routine
Wards
Council Commitments

#### 1. Recommendations

- 1.1 The Regulatory Committee is asked to:
  - 1.1.1 Note the contents of this report;
  - 1.1.2 Agree the change in process in relation to property inspections, with the introduction of a risk-based inspections model;
  - 1.1.3 Agree that decisions on whether to make one and three year grants of House in Multiple Occupation ('HMO') licences will continue to be delegated to the Executive Director of Place and that three year licences will only be suitable for properties which are fully compliant and which have had no problems in the previous licensed period; and
  - 1.1.4 Agree that a review of the current structure for HMO application fees should be undertaken.

#### **Paul Lawrence**

**Executive Director of Place** 

Contact: Andrew Mitchell, Regulatory Services Manager

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4208



# Report

# Houses in Multiple Occupation-Service Update

# 2. Executive Summary

- 2.1 This report updates the Committee on the operation of the Houses in Multiple Occupancy (HMO) licensing system and, in particular, about proposed changes to the property inspection regime.
- 2.2 The three-year licensing system and fee structure, introduced in 2017, reflected the growth in the number of larger shared accommodation properties, and sought to incentivise landlords to improve the standard within the sector by allowing officers to grant three-year HMO licences to suitable properties which have demonstrated compliance with legislation and conditions. This report also recommends that officers should review the current application fee arrangements to ensure that the costs to the Council of dealing with a HMO application are fully recovered.

# 3. Background

- 3.1 The Council is required to license Houses in Multiple Occupation where three or more individuals or families live in a property. The Council charges a fee to cover the costs of operating and enforcing the licensing scheme.
- 3.2 HMO licence fees are based on occupancy capacity, with an option of a one or a three year licence. New HMO licences are normally granted for one year, with a minimum period of six months. Existing licence holders applying for a subsequent licence for an individual property are afforded the flexibility of requesting a one or three year licence.
- 3.3 Grants of three year licences are only considered for suitable properties and on a case by case basis, and can be restricted to a one year licence based on the following assessment criteria first introduced in 2017 with a further criterion relative to continuous certification added in 2020. These are:
  - 3.3.1 Premises or landlords that are subject to ongoing monitoring where issues have been identified by officers;
  - 3.3.2 Premises or landlords subject to enforcement action;
  - 3.3.3 Premises or landlords where previous complaints have been upheld;

- 3.3.4 Premises for which remedial work identified on inspection has not been completed within four weeks of the first inspection date, without prior consent from the Council;
- 3.3.5 Premises where the Licensing Sub-Committee has chosen to restrict the period of licence due to concerns raised; and/or
- 3.3.6 Premises where the landlord is unable to provide evidence of continuous safety certificates for the property, during the term of the licence.

## 4. Main report

- 4.1 Since the introduction of the changes summarised above, officers have regularly reviewed the operation of the system in order that any unforeseen issues are resolved efficiently. This also allows any matters which require Committee consideration to be raised in a timely manner.
- 4.2 The Licensing Service endeavours to operate a robust and consistent licence application, enforcement and inspection regime for HMO properties. As part of the application process, a HMO property will be inspected by one of the Licensing Service's HMO inspections officers.
- 4.3 Historically, a HMO licence application would not be considered for grant unless the property in question had passed a property inspection in addition to meeting all other requirements, such as the application receiving no objections from Police Scotland. In some instances, that can mean that an application can take longer to process if there are any delays to information being received or if re-inspections are required. Currently it is estimated approximately 70% of HMO applications are incomplete at the time of submission, and over 50% of properties require a re-inspection. In the event of a property requiring a re-inspection, this can cause significant disruption to the Service due to the added administrative tasks, inspection re-scheduling and further documentation checks that are required.
- 4.4 The Licensing Service currently processes approximately 4,000 HMO applications per year, 94% of which are renewals. On average, HMO licence holders have held a licence for a minimum of five years and therefore should be experienced licence holders.
- 4.5 Having now completed the first cycle of three-year HMO renewals, it has been found that approximately 70% of applications have not demonstrated continuous safety certification, as is required by condition HMO1 of the HMO standard conditions of licence. Using this statistic as an indicator, officers are concerned that this might illustrate a wider problem with standards being maintained by licence holders. Accordingly, it is recommended that the Committee considers whether a risk-based property inspection model should be implemented.

- 4.6 Where there have been no previous concerns, a risk-based inspection model would permit those HMO renewal applications to be processed and granted with a property inspection scheduled during the licensed period. This would have the advantage of a check during the period of the licence to ensure that standards are being maintained. The application would still be sent to Police Scotland and the Scottish Fire Service as normal, and the inspection would be scheduled on the basis of risk, with those properties which are thought to be higher risk being inspected prior to being considered. To this end, officers are currently liaising with the Scottish Fire Service to create a risk-assessment system. This approach would allow applications to be processed more efficiently and would afford officers more time to deal with applications or properties which have given cause for concern.
- 4.7 At present, the vast majority of applications for a HMO licence are granted due to a significant level of officer support. Accordingly, the overall risk to public safety and neighbours is low, however the level of officer involvement to achieve this is unsustainable. Any properties which are a cause of concern will be inspected prior to the grant of any licence or will have an inspection scheduled shortly after the application is considered. The new inspection model will also help to drive up standards in the sector, as it will require properties to be maintained to the required standard throughout the licence period and not only when an inspection is scheduled during the application period, which has been a cause for concern for officers for some time.
- 4.8 One of the central reasons behind the introduction of a three-year licence for HMOs was to support further targeted enforcement work to ensure that all properties met the required standard and complied with the legislative requirements set out in the Housing (Scotland) Act 2006. Licence holders were incentivised to maintain their properties to a high standard as they could benefit from obtaining a three-year HMO licence for the same cost as a one year licence. This was on the basis that the work involved in processing and granting a licence for three years would come at no extra cost to the Council. Unfortunately, this has not been the case and officers are typically spending significantly longer on HMO continuation applications for a three-year licence.
- 4.9 Accordingly, officers propose to review the current HMO application fee arrangements and consider if any changes are required to reflect the current costs to the Council of dealing with an application.

# 5. Next Steps

5.1 If agreed, officers will commence work to review the fee structure for HMO licenses with the outcome being reported to Committee, with any recommendations for changes, early in 2022. As part of this process, the service will engage with stakeholders to ensure the views of the trade are taken into consideration.

5.2 Officers will continue to develop the risk -based system with the Scottish Fire Service.

## 6. Financial impact

6.1 At present, there will be no financial impact to the Licensing Service as the current HMO fee structure will remain unchanged.

# 7. Stakeholder/Community Impact

7.1 The Licensing Service will ensure that any change to the current HMO process will be widely communicated to HMO licence holders and agents. This will be achieved by emailing all HMO licence holders and agents to notify them, as well as using the Licensing Service Twitter account and monthly COVID Business Newsletter to update those affected. Officers will also continue to meet with HMO agents to provide them with relevant updates and discuss any issues that may affect the trade.

# 8. Background reading/external references

- 8.1 <u>HMO Standard Conditions</u>
- 8.2 Housing (Scotland) Act 2006

# 9. Appendices

9.1 Appendix 1 – Current HMO Licence Application fees

# Valid - 2021/22



# HOUSE IN MULTIPLE OCCUPATION LICENCE APPLICATION FEES

HMO licence application fees are based on occupant capacity with an option of a one or three year licence as approved by the Councils Regulatory Committee on 21 April 2017

#### Please note:

- HMO licences in their first year may be granted for a minimum period of 6 months
- Existing licences holders applying for a second or subsequent application ('renewal') for individual properties can apply for either a one or three year licence \*
- \*The grant of a three year licence will only be considered for suitable properties on a case by case basis and can be restricted to one year licence based on the following assessment criteria:
  - Premises/landlords that are subject to ongoing monitoring where issues have been identified by council officers
  - Premises/landlords that are subject to enforcement action
  - Premises/landlords where previous complaints have been upheld.
  - Premises that have failed to complete remedial work, identified upon inspection, within four weeks from the first inspection date, without prior consent of the council

Number of Occupants	Fee (£) (1or 3 year application)	
3	653	
4	871	
5	1,089	
6	1,367	
7	1,646	
8	1,924	
9	2,202	
10	2,481	
11	2,759	
12	3,037	
13	3,315	
14	3,594	
15	3,872	
16	4,150	
17	4,429	
18	4,707	
19	4,985	
20	5,264	
21-30	5,869	
31-40	6,474	

41-50	7,079
51-60	7,684
61-70	8,289
71-80	8,894
81-90	9,499
91-100	10,104
101-150	11,072
151-200	12,040
201-250	13,008
251-300	13,976
301-350	14,685
351-400	14,944
401-450	16,880
451-500	17,848
501-550	18,816
551-600	19,784
> 600	Increase of £967 per banding of 100

Percentage discount available for charity registered with The Scottish Charity Regulator (OSCR) and linked to homeless and / or vulnerable adult accommodation

Educational institutions – Property owned and managed by a charity registered with The Scottish Charity Regulator (OSCR) would be considered eligible for a 50% fee reduction

#### **MISCELLANEOUS FEES**

CERTIFIED COPY LICENCE	£61 - per copy
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Update 08.84.21 - V1



# **Regulatory Committee**

9.30am, Monday, 23 August 2021

# Licensing Service - COVID-19 Recovery Plan

Executive/routine
Wards All
Council Commitments

#### 1. Recommendations

1.1 It is recommended that the Committee notes the content of the report.

#### **Paul Lawrence**

**Executive Director of Place** 

Contact: Andrew Mitchell, Regulatory Services Manager

E-mail: Andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4208



# Report

# Licensing Service - COVID-19 Recovery Plan

## 2. Executive Summary

2.1 This report sets out the decisions made and the actions taken as a result of the COVID-19 pandemic since the last service update in <a href="November 2020">November 2020</a>. The report also informs the Committee of the steps the service intends to take to ensure that it continues to deliver an efficient service and describes how a backlog of applications, which has been created as a result of the pandemic, is to be dealt with.

## 3. Background

- 3.1 In line with official guidance from the UK and Scottish Governments, all Council services implemented changes as a result of the lockdown measures introduced on 23 March 2020. At the same time all Regulatory and Licensing Sub Committee and Licensing Board meetings were suspended until further notice.
- 3.2 Placing customers at the heart of the Licensing Service has remained a key priority, and a number of measures and systems were immediately put in place to enable the Licensing Service to continue to operate.
- 3.3 Whilst balancing duties of care to members of staff, businesses and customers proved challenging, the majority of staff members were able to work from home. This meant that throughout the lockdown period the City of Edinburgh Council was one of the few Local Authorities that managed to maintain and operate a Licensing Service, with the team continuing to process renewal applications, which form 95% of the applications received, and to issue licences.
- 3.4 However, the temporary measures that were introduced to allow service to be maintained have presented some challenges, as is highlighted below.
- 3.5 The Council acts as Licensing Authority for a range of legislation, including the Housing (Scotland) Act 2006 and the Civic Government (Scotland) Act 1982. The Council's activities as a Licensing Authority are funded directly by income raised from licence application fees. In a small number of cases fees are set by legislation, but the majority of fees charged are approved by the City of Edinburgh Council as part of the budget process. These fees are designed to fully recover the

costs of the service, as the provision of licensing services is not directly funded from the general revenue fund of the Council.

## 4. Main report

#### **Operational Challenges**

- 4.1 The Licensing Service has continued to operate throughout the entire COVID-19 pandemic, but this has not been without difficulties. Significant investment in mobile devices such as laptops, mobile phones and iPads has been necessary.
- 4.2 Whilst staff members have adapted well to working remotely, this has presented unique challenges due to the:
  - 4.2.1 Complexity of licensing in general, and issues with individual complex applications;
  - 4.2.2 Significant number of different licence types;
  - 4.2.3 Volume of applications;
  - 4.2.4 Inability to communicate with necessary consultees, many of whom were not working or unable to work during the lockdown periods; and
  - 4.2.5 Customer Hub, which would normally collect payments and carry out an initial check of applications to ensure it has been fully completed, has been closed.
- 4.3 These issues have created a backlog of applications to be processed, with approximately 9,151 applications outstanding at the time of writing.
- 4.4 Plans are continually being reviewed to address concerns arising from current circumstances and the backlog. Officers are prioritising new applications to ensure that applicants do not experience unnecessary delays which would prevent them from trading. Those who have submitted renewal applications can continue to trade whilst the application is processed and are therefore not disadvantaged. Moreover, resources from other areas of the Council have been brought in to process applications through the system.
- 4.5 New working practices have already been developed in a number of areas to help the service adapt to the remote working model. This pragmatic approach to the processing of applications, whilst ensuring all legal requirements are met will continue whilst the service operates under existing pressures. Staff have also been assigned to new areas of work as part of the ongoing development of the Centre of Excellence model being introduced across the Licensing Service.
- 4.6 Staff vacancies arose both prior to and during the lockdown period, but it was not possible to recruit. Recruitment continues to be actively pursued to fill a number of vacancies. The service is also liaising with the Council's agency staff provider to secure further resources at short notice to assist with the processing of applications and reducing the backlog.

#### Software Improvements - Move to Civica Cx

- 4.7 The Civica APP database system is used to record licensing applications. The system has a number of limitations which were known previously, but have been highlighted in recent Internal Audits. The system is a manual one with little internal automation to help progress licence applications. Additionally, the platform offers little or no interface with applicants which adds to the number of customer contacts which officers are asked to deal with. Coupled with the closure of the Customer Hub, where customers could lodge applications and seek advice, the above limitations have added to the backlog.
- 4.8 Throughout the lockdown period work has been ongoing to identify a more effective document management and storage system. Officers continue to carry out the work necessary to upgrade the current system to the Civica Cx system, which will:
  - 4.8.1 Provide a digital platform enabling mobile working and channel shift to deliver an improved and more responsive service;
  - 4.8.2 Provide an integrated system that will enable customers to make, pay for and monitor progress of applications online;
  - 4.8.3 Give real-time access anywhere, anytime via a connected device;
  - 4.8.4 create channel shift to deliver time and cost savings; and
  - 4.8.5 support the introduction of a Short Term Lets Licensing system.
- 4.9 The upgrade to the Civica Cx system requires significant investment but will in the longer term provide significant efficiencies for the service and will improve the customer experience. The system will also make it less likely that application backlogs will be created in future.

#### **Supporting Business Recovery**

- 4.10 Throughout the pandemic the Licensing Service has sought to support the economic recovery of the city, and has introduced a number of measures to support licence holders.
- 4.11 The service continues to proactively make over 12,000 customer contacts per month via monthly newsletters, telephone calls, emails and social media. These contain the latest service updates as well as up to date info regarding COVID regulations. Additionally, a streamlined process to allow businesses to apply for the use of outdoor areas, along with an occasional licence to sell alcohol, has been created.
- 4.12 Although outwith the remit of the Committee, since 1 April 2021, the service has been responsible for processing 1,653 occasional applications and 544 outdoor area permit applications, which have helped businesses to make the most of outdoor spaces as lockdown measures have eased.

- 4.13 Furthermore, officers have continued to provide significant advice to the hospitality and events sector ahead of the summer period and any festival events that may take place. This advice has helped those businesses to comply with COVID regulations and assisted them to demonstrate that their events are safe. The service already successfully supported the re-opening of hospitality in July 2020 and April 2021 and will continue to play its part in the city's economic recovery.
- 4.14 In addition, the service has also administered Scottish Government grant funds to the taxi and private hire car trade. Earlier this year, officers administered the grant scheme for taxi and private hire car drivers, with over 13,000 payments made worth over £16m to the trade. Moreover, work is underway to make payments to taxi and private hire car owners, with 1,200 payments made so far. At the time of writing, officers are continuing to process grant funding applications from vehicle owners and aim to make payments to operators as quickly as possible, with over 1,500 payments worth a total of over £1.7m made so far.

#### 5. Next Steps

- 5.1 The Licensing Service will continue to:
  - 5.1.1 Work closely with the licensed trade to ensure understanding of the challenges faced;
  - 5.1.2 Make progress with the activities outlined in this report; and
  - 5.1.3 Comply with all COVID-19 guidance and Council arrangements for the delivery of services.
- 5.2 Working towards the new financial year, it is intended that a full service review will take place once the service is back to normal in order to identify further areas of improvement.

# 6. Financial impact

6.1 None.

# 7. Stakeholder/Community Impact

- 7.1 The contents and recommendations neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.
- 7.2 The contents and recommendations described in the report do not deliver any outcomes relating to the ten areas of rights, nor do they enhance or infringe them.
- 7.3 There is no environmental impact arising from the contents of this report.

# 8. Background reading/external references

8.1 <u>Coronavirus (COVID-19) Contingency Measures: Update Report</u> – 2 November 2020.

# 9. Appendices

9.1 None.