

REPORT TO	ON
Licensing and Public Safety Committee	12 November 2019



TITLE	REPORT OF
Tinted Window Policy	Interim Monitoring Officer

Is this report confidential?	No
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PURPOSE OF THE REPORT

1. The purpose of the report is to review the existing tinted window policy.

RECOMMENDATIONS

2. To consider the options in respect of the possible ways forward
3. To agree to undertake a consultation process with stakeholders and
4. To agree to receive the outcome of the consultation in a future meeting.

CORPORATE OUTCOMES

5. The report relates to the following corporate priorities: *(tick all those applicable):*

Excellence, Investment and Financial Sustainability	
Health, Wellbeing and Safety	x
Place, Homes and Environment	

Projects relating to People in the Corporate Plan:

Our People and Communities	
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BACKGROUND TO THE REPORT

6. In July 2016 the new Hackney & Private Hire Policy was introduced, the policy included an amendment to the windows policy. All new vehicles at first license shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the

vehicle was manufactured to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass.

7. Since this policy was introduced the licensing authority has received numerous complaints of how restrictive this policy is. All drivers are finding it difficult to source vehicles which meet our windows policy. The suggestion made by the trade is that the transparency level of the tinted windows should be reduced to 50%.
8. Recently, many local authorities are choosing to either reducing the percentage of transparency of tinted windows in licensed vehicles or reducing in favour of CCTV.
9. We have consulted with three of the biggest manufactures, two of which came back to us and we found that the minimum tints applied from the production line is 18% - 82%, therefore the recommended minimum tint would be no less than 30% tint. Communications to the manufactures can be found in the attached appendixes. Appendix 1 is email communication from the manufactures, Appendix 2 is a brochure with standard tint levels applied to vehicles from production.

PROPOSALS (e.g. RATIONALE, DETAIL, FINANCIAL, PROCUREMENT)

10. Option 1 - Continue to allow 70% transparency vehicles as normal; i.e. no changes to the policy.
11. Option 2 – Reduce the transparency levels of tinted windows to 50% in licensed vehicles.
12. Option 3 - To allow a vehicle with tinted windows to be licensed with proposed light transparency of 30%, on the understanding that an approved CCTV system is installed to the satisfaction of the Council. Any vehicles with less than 30% transparency would not be allowed to be licensed.
13. If option 2 is accepted as a possible way forward, then a simple policy amendment can be made subject to the outcome of a consultation process.
14. However, the approval of option 3 would lead to a wide range of significant legal issues that would need to be taken into account. These particularly relate to the topics of Data Protection and Information Governance, as the ensuing potential for intrusion/infringement of civil liberties is considerable. We would need to be satisfied with the robustness of the Council's approach and in doing so adhere to the following requirements: -
 - a) a list of authorised installers of CCTV systems who meet the data protection standard set out by the Information Commissioner would be required for drivers to choose from.
 - b) a code of conduct would have to be produced which sets out guidelines for installation and management of the systems
 - c) documents to reassure the regulators that any processes meet their respective requirements, e.g. the SCC's Passport to Compliance;
 - d) a detailed specification of equipment which is known to be of sufficient capability to meet the Council's expectations as defined (e.g. privacy-friendly recording buttons to enable the activation of audio recording by the passenger, if required);
 - e) a certificate of installation to be displayed in the vehicle, along with other appropriate notices to provide adequate warning to members of the public travelling in the vehicles;
 - f) a Privacy Impact Assessment to be drawn up to ensure that all privacy issues have been considered and all statutory expectations met.

15. The Data Protection Act (DPA) defines a “data controller” as the individual who or organisation which has ultimate responsibility for how personal data is collected and processed. The ICO has the view that in mandating the use of CCTV in Hackney Carriage or Private Hire vehicles, a council acts as a data controller and as such:

- is ultimately responsible for how the images are stored and used;
- determines in what circumstances the images should be disclosed,
- is responsible for complying with all relevant data protection legislation.

The Council would need to provide evidence which sets out detailed requirements and what action has been taken to ensure compliance with legislation. For instance, CCTV systems should be installed in a way that allows data to be secured in a locked “data box” inside a vehicle as well as being encrypted. No one but the relevant council officer or authorised staff from the data processor should be able to access this data.

CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

Opinions have been sought regarding tinted window policy amendments via the Taxi Trade Forums and the trade were amiable towards option 2.

Any proposals to change the current policy would require consultation.

COMMENTS OF THE STATUTORY FINANCE OFFICER

18. There are no financial implications.

COMMENTS OF THE MONITORING OFFICER

19. The legal implications are set out within the body of the report.

If the Committee decide that they wish to change the tint policy on licensed vehicles, then a full consultation will be required. All consultation responses would then have to be considered at a future meeting. Ultimately, any change would have to be agreed at full Council.

OTHER IMPLICATIONS:

▶ Risk	<i>GDPR compliant code of conduct must be implemented before the introduction of CCTV systems, in the event of the existing windows policy be amended.</i>
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Appendix 1 Emails from manufactures

Appendix 2 VW brochure

David Whelan
Interim Monitoring Officer

Report Author:	Telephone:	Date:
Justin Abbotts, Licensing Officer	01772 625460	04/11/19