

REPORT TO	ON
Licensing and Public Safety Committee	8 December 2020



TITLE	REPORT OF
Consultation Feedback regarding Tint Policy	Shared Services Lead - Legal & Deputy Monitoring Officer

Is this report confidential?	No
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PURPOSE OF THE REPORT

1. The purpose of the report is to provide the feedback on the consultation carried out with stakeholders throughout September and October 2020. This report invites Members to agree on the way forward and to recommend the formal adoption of the proposed changes to the existing policy on tinted windows in licensed vehicles.

RECOMMENDATIONS

2. Note the contents of the report.
3. Consider the consultation responses.
4. Based on the responses from the consultation, reach a decision on whether to implement option 2 or option 3. If members are minded in accepting the changes to policy, then forward this report to the next meeting of the Council with a recommendation for formal adoption of the proposed changes to the existing policy on tinted windows.

CORPORATE PRIORITIES

The report relates to the following corporate priorities:

An exemplary Council	x
Thriving communities	x
A fair local economy that works for everyone	x
Good homes, green spaces, healthy places	

BACKGROUND TO THE REPORT

5. The original report was agreed by members for consultation on 12/11/2019 – members are referred to background document 1. This consultation provided inconclusive results as the questions were unclear. An update was presented to members on 10/03/2020.
6. Members were informed that feedback had been provided by the trade that the questions were too technical, and the internet format was not accessible. Officers asked the committee to go out to consultation again on this matter, with the option of a paper format to increase accessibility. Members were advised that a report detailing the outcome of the consultation would be brought before committee at a future meeting. Members agreed the consultation was to be re-done.
7. Due to the constraints and pressures of Covid 19, there has been a delay in proceeding with the consultation. Nevertheless, officers have managed to consult with the trade and stakeholders between September and October – over a 6-week period, 21/09/2020 – 02/11/2020.

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

8. The options proposed during the consultation were: -

Option 1 - Continue to allow 70% transparency vehicles as normal; i.e. no changes to the policy.

Option 2 – Reduce the transparency levels of tinted windows to 50% in licensed vehicles without the need for CCTV.

Option 3 - To allow a vehicle with tinted windows to be licensed with proposed light transparency of 30% to 49%, 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.

9. The proposal is to amend the policy and proceed with Option 2 to agree to reduce the transparency levels of tinted windows to no less than 50% in licensed vehicles without the need for CCTV.
10. The only change the above option would require is amendment to the policy wording below, to reflect the new percentage requirement, in respect of Hackney Carriage and Private Hire Vehicles.

Current Policy Wording:

Any Hackney Carriage vehicle which is first licensed shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass.

Any Private Hire vehicle which is first licensed shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass.

The Proprietor of a Private Hire Vehicle of exceptional quality and exclusively used for executive hire work may apply for an exemption from the requirement to be fitted with glass windows which permit a maximum of 70% light transmission

Amend to:

Any Hackney Carriage vehicle which is first licensed shall be fitted with glass windows which permit a minimum of 50% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass.

Any Private Hire vehicle which is first licensed shall be fitted with glass windows which permit a minimum of 50% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass.

The Proprietor of a Private Hire Vehicle of exceptional quality and exclusively used for executive hire work may apply for an exemption from the requirement to be fitted with glass windows which permit a maximum of 50% light transmission

12. Members are asked to consider the feedback given from the consultation exercise shown below in paragraph 15 of this report and agree to the proposed changes to the policy relating to tinted windows.

13. In order to implement the recommendations, set out in this report, it is proposed that the changes would need to be forwarded to the next meeting of full council with a recommendation for formal adoption.

CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

14. Feedback from the consultation exercise between 21st September 2020 – 2nd November 2020 was undertaken in the following ways: -
 - Advisory letters were sent to all drivers and operators.
 - Paper feedback forms were provided to every licenced driver, vehicle proprietor and licenced operator.

15. The following responses summarised below have been received following the consultation exercise. The consultation questions were: -

Q1 To continue with the existing policy by opting for a factory fitted glass has a light transmission of 70% or more.

Q2 Amend the current policy to permit vehicles with a tint level no lower than 50% without the installation of CCTV.

Q2 Amendment of policy to allow tint level of 30% to 49% which would require installation of CCTV to an approved standard in the vehicle.

- 16.** The licensing authority received 39 responses to the consultation, with 100% of consultees requesting a change to the existing policy.
- 17.** Over 90% of the consultees requested for implementation of option 2 & 3, 2 respondents were unsure as to what changes would be suitable, the remaining 3 people said no to all the options presented.
- 18.** The majority of consultees request the policy is changed to allow tint levels of no less than 50% as well as an option for 30% to 49% with the installation of CCTV. The addition of CCTV would require the production of a policy, governing installation and data management, thus ensuring any systems installed, conform to ICO (Information Commissioner Standards) relating to GDPR and DPA.
- 19.** 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.
- 20.** 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.

21. If option 2 is accepted as a possible way forward, then a simple policy amendment can be made. This option would give an overall reduction of 20% in the levels of tint allowed, thus providing a greater choice of vehicles for drivers to purchase.

COMMENTS OF THE STATUTORY FINANCE OFFICER

22. No comment

COMMENTS OF THE MONITORING OFFICER

The legal implications have been identified in the body of the report. In order to adopt the changes to the policy, the report will have to be referred to Full Council for approval

OTHER IMPLICATIONS:

<p>▶ Risk</p> <p>▶ Equality & Diversity</p> <p><i>Add any other implications which you consider particularly relevant</i></p> <p>All inapplicable risks should be deleted before submission. Do not include 'N/A'.</p>	<p>GDPR compliant code of conduct must be implemented before the introduction of CCTV systems, in the event of the existing windows policy being amended to allow this.</p>
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BACKGROUND DOCUMENTS

Background Document 1 - Previous committee report 12/11/2019

Background Document 2 - Previous committee report 10/03/2020

APPENDICES

Appendix A: Consultation documents: Please see below link.

<https://www.southribble.gov.uk/sites/default/files/All%20Consultations.pdf>

LT Member's Name David Whelan

Job Title: Shared Services Lead – Legal & Deputy Monitoring Officer

Report Author:	Telephone:	Date:
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