

REPORT TO	ON
Council	27 January 2021



TITLE	REPORT OF
Tint Policy Report	Shared Services Lead – Legal & Deputy Monitoring Officer

Is this report confidential?	No
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PURPOSE OF THE REPORT

1. Considering the outcome of the consultation exercise undertaken throughout September and October 2020 (summarised in section 5 below) and the approval by the Licensing & Public Safety Committee on the 8th of December 2020, this report invites members of the Council to formally adopt the proposed amendment to the Licensing Policy, relating to allowed levels of light transparency in vehicle windows. The requested amendment is for permitted levels of tints allowed in Hackney Carriage & Private hire vehicles windows.

RECOMMENDATIONS

2. Members are requested to note the contents of the report.
3. Members are requested to formally adopt the amendment to the tinted windows policy (referred to in the report as option 2) which seeks to reduce the currently permitted tint levels allowed in vehicles to 50% from 70%.

REASONS FOR RECOMMENDATIONS

4. Many vehicles manufactured in the UK are produced with some form of tinted windows as standard. The existing policy has been highlighted through the consultation as being quite restrictive. When drivers are procuring new vehicles, it has become difficult to acquire vehicles without tinted windows.

OTHER OPTIONS CONSIDERED AND REJECTED

5. Option 1 - Continue to allow 70% transparency vehicles as normal; i.e. no changes to the policy.
6. Option 2 – Reduce the transparency levels of tinted windows to 50% in licensed vehicles without the need for CCTV.
7. 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.

8. In terms of Option 1 -90% of consultees requested a change to the existing policy. Option 3 was rejected due to the complexities of wide-ranging policy changes which would have been required. Option 3 also had legal implications relating to GDPR and Data Protection, which would have required a GDPR policy to be written.
9. Option 2 was accepted as a way forward by the Licensing & Public Safety Committee, this only required a simple amendment to the existing policy.

CORPORATE OUTCOMES

10. The report relates to the following corporate priorities:

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

11. BACKGROUND TO THE REPORT

12. In July 2016 the new Hackney & Private Hire Policy was introduced. This 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. 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%.
13. On 12th November 2019, members of the Licensing & Public Safety Committee received a report from officers highlighting issues found with the current tints policy. The full detailed report can be found as background document 1.
14. Members agreed that the changes to policy regarding modified vehicles should be subject to a consultation exercise, and results presented at a further meeting.
15. On the 10th March 2020, members of the committee were provided with an update on the tint policy. A Licensing Officer explained that a consultation period had taken place throughout January and February 2020.
16. Feedback had been provided by the trade that the questions were too technical, and the internet format used 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 the committee at a future meeting. Members agreed the consultation was to be re-done.

17. A further consultation was conducted with the trade and stakeholders over a six-week period between 21/09/2020 – 02/11/2020.
18. On 8th December 2020, members of the Licensing and Public Safety Committee received feedback from the consultation exercise that took place between 21st September 2020 – 2nd November 2020. Details of that report can be found attached as background document 2.
19. The results of the consultation conducted were overwhelmingly in favour of adopting the reduction of the tints in vehicles to 50% from 70%. The Licensing & Public Safety committee agreed this was the best option for adoption into policy and formally approved this and recommended for it to be forwarded onto Full Council for approval.

20. PROPOSAL

21. The proposal is to agree to change the wording in respect of the tint levels in licensed vehicles. The original policy can be found in the original report attached to this report as background document 1. The full proposed changes can be found within the original report attached to this report as background document 2.

22. Amended wording

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 minimum of 50% light transmission.

23. CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

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.

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.

Q3 Amendment of policy to allow tint level of 30% to 49% which would require installation of CCTV to an approved standard in the vehicle.

The licensing authority received 39 responses to the consultation, with 100% of consultees requesting a change to the existing policy.

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.

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.

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 are 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.

The Data Protection Act (DPA) defines a "data controller" as the individual who or the 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.

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.

24. After consultation with the trade and stakeholders, three options were presented, highlighted in section 5. The feedback from over 90% of consultees requested a change to the policy to Option 2, a reduction of the tint levels from 70% to 50%. This gives drivers more options when purchasing new vehicles and is a less restrictive policy. This option would be easier to implement, with only a small amendment to policy wording required. This option was agreed as the best way forward by the Licensing & Public Safety Committee in the meeting 8th December 2020. This gives the trade a greater choice of vehicle procurement and does not necessitate large policy changes, which would have been required should Option 3 have been implemented.

25. RISK

None

26. EQUALITY AND DIVERSITY

None

27. COMMENTS OF THE STATUTORY FINANCE OFFICER

28. There are no financial implications of this policy amendment.

29. COMMENTS OF THE MONITORING OFFICER

30. The amendments to the Policy will require approval by Full Council, for the same to be changed.

31. BACKGROUND DOCUMENTS

Background document 1 – Report to Licensing & Public Safety Committee 12/11/2019 accessible using the below link and can be found at agenda item 9

<https://southribble.moderngov.co.uk/ieListDocuments.aspx?CId=483&MId=1601&Ver=4>

Background Document 2 – Update on Consultation Re Tint Policy 08/12/2020, accessible using the below link and can be found at agenda item 7.

<https://southribbleintranet.moderngov.co.uk/ieListDocuments.aspx?CId=483&MId=1795&Ver=4>

APPENDICES

Appendix 1 - Full Consultation Document - is accessible using the below link

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

LT Member's Name

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