

## **PRIVATE HIRE VEHICLE METER TESTS**

### **RECOMMENDATION**

1. To consider the options set out for carrying out meter tests on private hire vehicles.

### **SUPPORTING INFORMATION**

- 2.1 At its meeting on 13 November 2003 this Committee resolved to change the hackney carriage meter test procedure, replacing 100 per cent testing of meter accuracy (following a tariff change) with a random sample of up to 10 per cent of the fleet.
- 2.2 In February 2004 this Committee considered the comments of a small number of private hire vehicle proprietors who were expressing their concerns that they were being treated differently from hackney carriage proprietors in respect of meter tests. The private hire vehicle proprietors were requesting equal treatment and that either private hire vehicles move onto sample meter tests or that the Council revert back to 100 per cent meter testing for all licensed vehicles. The Committee resolved to defer the matter to allow licensing officers to investigate meter testing options and report back.
- 2.3 Since that meeting further requests for a review of private hire meter tests have been received from two private hire operators within the City. A letter from Chads Cars is attached in Appendix 2.
- 2.4 The law makes a clear distinction between private hire and hackney carriage operators. Whilst hackney carriages are obliged to have a taximeter installed that is calibrated in accordance with the fare table approved by the Council, private hire operators are under no such obligation. The decision to install a meter is solely at the discretion of the vehicle proprietor/operator. However, where they are installed, the licensing authority must ensure the accuracy of every single meter. The Council does not have the discretion to introduce sample testing.

- 2.5 At the present time, the Council meets this requirement by requiring a meter test of every vehicle immediately after a tariff change. The meter test is conducted by a Specified Testing Station (on behalf of the Council i.e. as a contractor) and the cost of this test is met by the vehicle proprietor. The meter test involves a Five-Point Vehicle Safety Check by an examiner prior to driving the vehicle over a measured distance (currently 1.1 miles) to verify the accuracy of the meter calibration (undertaken by a meter company or their local agent). This is the only method of meter testing that can give the Council 100 per cent confidence in the accuracy of all the taxi meters in any particular company or fleet, following a tariff change.
- 2.6 Within both the hackney carriage and private hire trades, it has principally been the Five-Point Safety Checks that has attracted most criticism. This is because the Safety Check often identifies vehicle defects, some of which are serious, which can cause the vehicle license to be suspended. Such defects can prove costly in terms of repair costs and in lost work. However, in spite of the obvious public safety benefits of such checks, the principle reason for their introduction was the protection of the Council's contractors (vehicle examiners) required to drive the vehicle over the measured distance. In addition to the safety of the examiner, it is important to consider their protection from prosecution for vehicle defects, since it is the driver, not the proprietor, who is held responsible if a vehicle is stopped by the police; a vehicle examiner would not be exempt from this. In safety terms, the Council must have regard to its statutory duties in respect of contractors as set out in the 'Managing Contractors Safety' policy. This would require the Council to identify any risk to contractors arising from the contract requirements and take steps to address this. The Five-Point Safety Check, which was agreed with the Specified Testing Stations and was approved by the Council's Policy Committee, already achieves this.
- 2.7 Licensing Officers were asked to identify possible alternative methods for testing the accuracy of taximeters in private hire vehicles; these are set out in Appendix 3. However, in considering these alternatives, members must have regard to the legal implications; to cease all meter testing, for example, would be contrary to the requirements of the Local government (Miscellaneous Provisions) Act.
- 2.8 To cease meter tests would also present a number of enforcement issues and is likely to compromise the Council's ability to discharge its public protection role in respect of overcharging. In the event of an investigation into a complaint of overcharging, the Council would be unable to prosecute an offender. This is because the Council's failure to test individual vehicles (in favour of a certificate) would give the driver/proprietor a valid defence, in that they were unaware that the meter was improperly calibrated and the Council had declared itself satisfied with the meter accuracy, by accepting the certificate.
- 2.9 Another enforcement problem associated with this procedure is that where the Council does not test the meter accuracy, it cannot seal the meter. This is done by the meter company, as it is now with hackney carriages. Most meter company seals can be fairly easily obtained by members of the trade, unlike the embossed lead seals specifically manufactured for the Council. This makes it almost impossible for Licensing Officers to detect whether a meter has been tampered with.

- 2.10 Although such a system would prove less expensive for vehicle proprietors (by virtue of not paying a meter test fee) it would be more costly to the Council. Experience with the hackney carriage certification system showed that it required considerably more office time in organisation, negotiation with meter companies, seeking missing certificates or following up incorrect certificates. Following the hackney carriage tariff charge earlier this year, Enforcement Officers were still trying to find outstanding certificates up to four weeks after the required date. Applying this system across a number of different private hire companies, all of which have tariff changes at different times, would have significant implications on officer workload.
- 2.11 The Council can require licensed vehicles to be submitted for inspection up to three times a year. If members opted to cease meter tests, they may wish to consider introducing a second full vehicle inspection each year, reducing the time between inspections to six months. This would help to minimise any meter inaccuracy problems arising from the withdrawal of meter tests and go some way to restoring public/Council confidence in meter accuracy. However, introducing such a system would have a workload/budgetary implication and would incur additional testing costs for vehicle proprietors.

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<b>Background papers:</b>	?
<b>List of appendices:</b>	Appendix 1 Implication Appendix 2 Meter Test Options Appendix 3

<b>IMPLICATIONS</b>
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**Financial**

1. This would depend upon the option chosen by the Committee and its impact upon staffing resources. Any additional resources identified would be the subject of a further report to this Committee; any costs incurred would need to be met by increased licence fees.

**Legal**

- 2.1 Section 71 of the Local Government (Miscellaneous Provisions) Act 1976 requires that any private hire vehicle with a taximeter fitted shall not be used in a controlled District unless such taximeter has been tested and approved by or on behalf of the Council.
- 2.2 Section 50 of the Act allows Councils to require licensed vehicles to be submitted for inspection up to three times a year. To increase the inspection frequency from the current one per year will involve significant additional costs to vehicle proprietors and impact upon the workload of the Taxi Licensing Section and the Specified Testing Stations.
- 2.3 It is unlikely that any prosecutions for overcharging caused by incorrectly programmed or calibrated taximeters can be taken by the Council, if it ceases to conduct meter tests following tariff changes. It should also be borne in mind that any complaints from the public that are not properly investigated by officers are potentially challengeable by the complainant through the judicial review process.

**Personnel**

3. Some of the options identified in Appendix 3 have staffing resource implications.

**Equalities Impact**

4. All citizens of Derby have the right to be protected from illegal overcharging by private hire vehicles and hackney carriages.

**Corporate Objectives and Priorities for Change**

5. Taxi licensing contributes to the Council's objective of **protecting and supporting people**.

## APPENDIX 3

METER TEST OPTIONS	ADVANTAGES	DISADVANTAGES
<p>1. Revert back to 100% meter tests for all hackney carriages to bring them in line with private hire vehicles.</p>	<ul style="list-style-type: none"> <li>• Fair and equitable approach to both hackney carriage and private hire proprietors.</li> <li>• Ensures 100% confidence in meter accuracy following a tariff change.</li> <li>• Provides the best level of public protection from illegal overcharging.</li> <li>• Would allow the Council to pursue legal action against drivers/proprietors who overcharge.</li> <li>• Would give maximum protection against possible meter tampering.</li> <li>• This approach is least workload intensive for the taxi Licensing Section.</li> </ul>	<ul style="list-style-type: none"> <li>• This would not be welcomed by the hackney carriage trade, which would incur (again) meter test fees.</li> <li>• Any 'hoped for' relaxation of meter test standards, or removal of meter test fees, would not be forthcoming to private hire proprietors.</li> </ul>
<p>2. Retain the existing meter test situation i.e. 100% testing of private hire vehicles and certification, plus 10% sample testing for hackney carriages.</p>	<p>This retains 100% confidence in meter accuracy following a tariff change for private hire vehicles and allows some confidence in hackney carriage meter test accuracy depending upon the outcome of sample testing.</p>	<p>The different approach to hackney carriages and private hire vehicles appears inequitable and unfair to the private hire trade (although this is not necessarily the case).</p>

METER TEST OPTIONS	ADVANTAGES	DISADVANTAGES
<p>3. Remove all meter testing from private hire vehicles (following a tariff change) in favour of meter company certificate, but retain the 10% sample testing for hackney carriages</p>	<p>Is likely to be supported by private hire proprietors since it will remove meter test fees and the possibility of vehicle suspension/repair costs arising from the 5-point safety check.</p>	<ul style="list-style-type: none"> <li>• Significantly reduces confidence in meter accuracy following a tariff change</li> <li>• Significantly reduces the level of public protection from illegal overcharging.</li> <li>• Allows no protection against possible meter tampering.</li> <li>• Would effectively [prevent the council pursuing legal action against private hire drivers/proprietors who overcharge.</li> <li>• Increased the workload for the Taxi Licensing Section.</li> <li>• May be seen as inequitable by the hackney carriage trade, since they still have a 10% sample survey.</li> <li>• Is contrary to the statutory provisions in the 1976 Act and is therefore <i>ultra vires</i>.</li> </ul>

METER TEST OPTIONS	ADVANTAGES	DISADVANTAGES
<p>4. Remove all meter testing from both private hire vehicles and hackney carriages (following a tariff change) in favour of meter company certification (including ceasing the 10% sample testing for hackney carriages)</p>	<ul style="list-style-type: none"> <li>• Fair and equitable approach to both private hire and hackney carriage proprietors.</li> <li>• Removes meter test fees for the trade following a tariff change.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides very little confidence in meter accuracy following a tariff change.</li> <li>• Provides very little public protection from overcharging.</li> <li>• Allows no protection against possible meter tampering.</li> <li>• Would effectively prevent the council pursuing legal action against licensed drivers/proprietors who overcharge.</li> <li>• Increase workload for licensing officers.</li> <li>• Is contrary to the statutory provisions in the 1976 Act and is therefore <i>ultra vires</i> in respect of PHVs</li> </ul>
<p>5. As 4. above, but introduce 6 monthly full tests (instead of 12 monthly) for all licensed vehicles.</p>	<ul style="list-style-type: none"> <li>• Provides better public protection by more frequent detailed examination of all vehicles.</li> <li>• Would reduce the amount of time any incorrectly calibrated meter could overcharge customers.</li> </ul>	<ul style="list-style-type: none"> <li>• Would incur another full test fee (and re-test) each year, which would be more costly than the meter test fee.</li> <li>• Unlikely to be popular with some members of the trade.</li> <li>• Would not prevent possible meter tampering.</li> </ul>

<b>METER TEST OPTIONS</b>	<b>ADVANTAGES</b>	<b>DISADVANTAGES</b>
<p>6. 100% meter tests to be carried out for both hackney carriages and private hire vehicles by Licensing Enforcement Officers.</p>	<ul style="list-style-type: none"> <li>• Reduced costs for vehicle proprietors (compared to current meter test fees).</li> <li>• Vehicles would only be submitted for a 5-point safety check if the enforcement Officers had reason to believe there were defects.</li> </ul>	<ul style="list-style-type: none"> <li>• This workload could not be absorbed by the two existing Enforcement Officer posts. Additional resources would be required, the cost of which would need to be met by licence fees.</li> <li>• Some vehicle proprietors may not support this approach.</li> </ul>