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Executive Member Decisions

Friday, 12th August, 2022
10.00 am

AGENDA

1. **EMD - Review of hackney carriage and private hire
vehicle safety testing station provision**
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vehicle safety testing station provision

Date Published: Friday, 12th August, 2022
Denise Park, Chief Executive

EXECUTIVE MEMBER DECISION



REPORT OF:	Executive Member for Environment & Operations
LEAD OFFICERS:	Strategic Director of Environment & Operations
DATE:	11 August 2022

PORTFOLIO/S AFFECTED: Environment and Operations

WARD/S AFFECTED: (All Wards);

SUBJECT: EMD -Review of hackney carriage and private hire vehicle safety testing station provision

1. EXECUTIVE SUMMARY

1.1 The taxi/private hire trade within Blackburn with Darwen have requested through the Blackburn with Darwen Taxi Forum and via a letter from the trade associations for a review to be carried out of the vehicle safety testing provision within the Borough.

1.2 The last review of testing provision was carried out in 2018.

1.3 The current system requires all vehicles to be tested at the Council's Motor Vehicle Service Station (MVSS). A number of the trade would prefer for more options to be made available.

1.4 The age profile of the private hire and hackney carriage fleet licensed within Blackburn with Darwen Borough Council shows 70% of vehicles are at least 10 years old.

1.5 On first presentation to MVSS for testing 72% of the fleet fail the test.

1.6 A review has been carried out of provision at some other Local Authorities in Lancashire and Greater Manchester. It has been established that there are a variety of systems in place – Council run, completely contracted out and dual in-house/contracted out provision.

1.7 The in-house model ensures good controls in consistency of testing, alongside numerous other benefits, but does not allow for competition within the market.

1.8 In order to offer additional testing providers a very detailed contract drafting and tendering process would be required with particular attention given to the financial robustness of businesses. This is essential to minimise the risk of business failure resulting in a gap in provision for a safety critical service.

1.9 Contracted out services are vulnerable to variations in consistency and would necessitate contract monitoring by the Council, which would require additional resources. Close contract monitoring would be needed as there is a risk from the Council being vicariously liable for any harm caused by a failure of the contracted out service.

1.10 Introducing competition may bring about a reduction in the cost of the actual test for the trade, but this is likely to be eroded by increased costs for tendering, contract monitoring and administration which would be added into the cost of a private hire and hackney carriage vehicle licence.

2. RECOMMENDATIONS

That the Executive Member:

2.1 Approves that Motor Vehicle Service Station at Davyfield Depot continues to carry out the MOT and supplementary testing arrangements for the hackney carriage and private hire vehicle fleet.

2.2 Approves that a further review of testing provision for the hackney carriage and private hire vehicle fleet to be carried out in 3 years in 2025.

3. BACKGROUND

3.1 The principal purpose of hackney carriage and private hire licensing is to protect the public and promote public safety. The safety and suitability of vehicles presented to be licensed is a critical decision for the Licensing Authority.

3.2 When issuing licences, Blackburn with Darwen Borough Council is concerned to promote

- The safety and health of the public and drivers
- Vehicle safety, comfort and access
- Providing a quality service to the public

3.3 The work links with the Council's Corporate Plan 2019-2023 priority of "Safe and Clean Environment :

- *work with our citizens and businesses to promote behaviours, using enforcement action where necessary and in the best interest of public protection".*

3.4 The Council requires all hackney carriage and private hire vehicles to have a DVSA standard MOT and a supplementary test carried out once every year until the vehicle is 3 years old, and twice a year for vehicles over 3 years old. The testing links with the hackney carriage or private hire vehicle licence renewal.

3.5 The supplementary test is to check on additional requirements, over and above a private vehicle MOT, to make the vehicle suitable to be hackney carriage or private hire vehicle. The test includes items such as:

- Condition of the bodywork
- Licence plates and other signage
- Condition and cleanliness of the interior of the vehicle
- Provision of first aid kit
- Where appropriate, provision for the safe loading and carriage of wheelchair users

3.6 All MOT and supplementary testing must be carried out at the Council's Motor Vehicle Service Station (MVSS) based at the Davyfield Road Depot. The location is easily accessible from both Blackburn and Darwen and is situated close to M65 motorway junctions.

3.7 Bookings and payments for the tests and licence plate/renewal disc fees are made online. Supporting documents such as insurance documents are submitted by email.

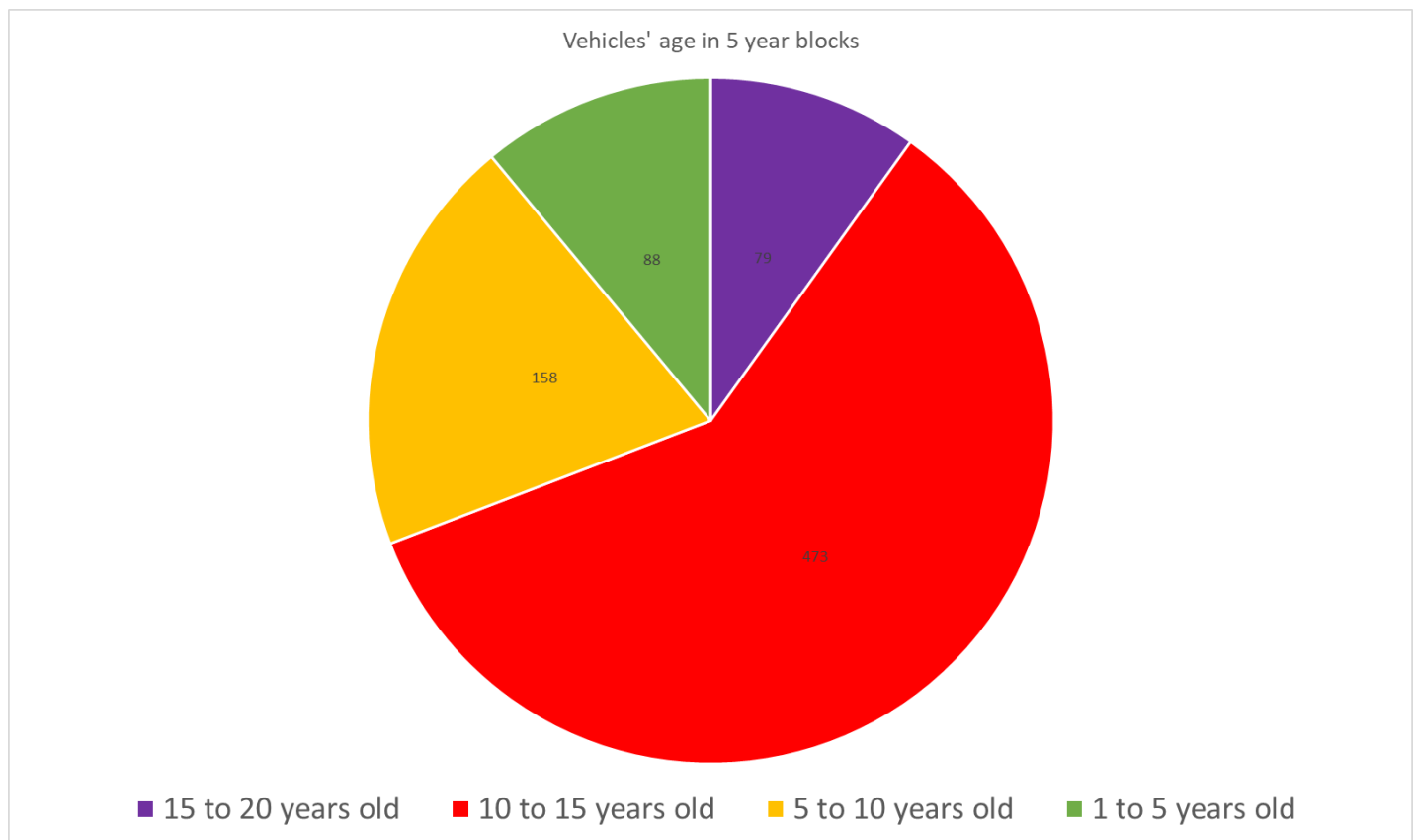
3.8 When a vehicle passes its first test (on first issue of a vehicle licence) the owner collects the licence plate (a 'plate for life') from MVSS. On subsequent renewals, when a vehicle passes the test, a renewal disc is issued at the MVSS and the vehicle can continue working. In effect, a one-stop shop is available for vehicle owners at the MVSS. The issuing and lifting of suspensions if a vehicle fails a test is also carried out at the same location.

3.9 The reasons the trade have requested a review are:

- (i) They would like a second testing station;
- (ii) They are unhappy with the costs.
- (iii) The trade complain that the testing regime at MVSS is too strict with vehicles being unfairly failed.
- (iv) The trade complain that some faults causing the vehicle to fail unfairly attract re-testing fees.

4. KEY ISSUES & RISKS

4.1 As part of this review an analysis of the age profile of the hackney carriage and private hire vehicle fleet has been carried out. In December 2021 the fleet of hackney carriage and private hire vehicles has 70% which are aged 10 years or older. The following diagram shows the age profile:



4.2 Until 10 years ago the Council had an age limit policy which required all private hire vehicles to be less than 10 years old. For hackney carriage vehicles the age limit was 15 years. Upon reaching these age limits a licence would not be issued for the vehicle to be used as a private hire or hackney carriage licence.

4.3 Over a 5 year period from 2016/17 to 2021/22 the average percentage of vehicles failing the MOT test on first presentation at MVSS is 72%. Of the retests carried out the average percentage carried out free of charge is 27%. [The year 2020/21 has not been included due to effects of the pandemic on testing regimes].

4.4 The Department of Transport's "Taxi and private hire vehicle licensing: best practice guidance" issued in 2010:

Number Of Testing Stations. There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. There could be an advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. (The Vehicle Operators and Standards Agency – VOSA – may be able to assist where there are local difficulties in provision of testing stations.)

The status of this guidance is stated as:

"it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations. This Guidance is intended to assist licensing authorities but it is only guidance and decisions on any matters remain a matter for the authority concerned."

The aim of this report is to ensure the Council considers the above guidance and comes to its own conclusion.

4.5 A review has been carried out of the service offered by a number of other neighbouring local authorities. Where there is external provision for testing the fee for the test is either set by the local authority or set by the garage. The competition/choice element is further built into the costs of any repairs needed for the vehicle to pass the test. No repairs are undertaken at MVSS, ensuring vehicle owners are free to source competitive rates for vehicle repairs.

The cost of the test at MVSS has not increased since 2015. For Blackburn with Darwen free re-tests are carried out in accordance with DVSA requirements. There is no fee for a retest where only supplementary testing items were the reason for failure.

The results are presented here:

Authority	Cost for test	Cost of re-test	Number of testing stations	In-House Y/N
Blackburn with Darwen	£62	£31.99	1	Y
Blackpool	£60	£25	1	Y
Burnley	£50	Set by garages	5 (1 Lancashire County Council + 4 private)	Y and N
Chorley	Included in cost of licence	Included in cost of licence	6	N
Hyndburn	£52.50	£25	1	Y
Preston	Set by garages	Set by garages	5	N
Ribble Valley	£50	Set by garage	1	N
Rossendale	£54.85 / £50	Set by garages	2	N
South Ribble	£35 to £50	Set by garages	10	N
Wyre	£40	Free within 10 days then £40	1	Y
Bolton	£50 (£60)	Before 10 days free, after 10 days £50 (£60)	4 (1 council + 3 private)	Y and N
Bury	Included in cost of licence	£56 for failure of 10 or more items	2 (1 council + 1 private)	Y and N
Manchester City	£60	£30 for major	1	Y
Wigan	£56	£33	1	Y

4.6 Some members of the trade had previously complained that they could not have a test quickly enough. There is provision for additional tests to be added at the end or beginning of the day where a licence would expire if the vehicle was not tested. Current data indicates that tests are available within 24 hours.

4.7 Some members had previously indicated they feel the testing regime at MVSS may be over stringent, however a spot check by DVSA in the summer of 2021 confirmed that testing is in line with their requirements.

4.8 Trade sometimes complain when re-test fees are applied to vehicles failing the initial test. Many faults can have a free re-test and the requirements set by DVSA regarding this are followed. Full details can be found in this link: <https://www.gov.uk/getting-an-mot/retests>

4.9 The supplementary testing manual allows for concerns about the condition of a vehicle to be referred to a Licensing Officer for further consideration before a grant or renewal can be issued. A timeframe for remedial work to be completed within the licensed period can be agreed at the officer's discretion.

4.10 One common area of contention is the body work standard with vehicle owners disagreeing with standards applied which are designed to maintain an acceptable appearance of the fleet. Judgements on the standard to apply are subjective with potential for variation. This area of inconsistency in standards applied is likely to create additional queries and complaints.

4.11 The Public Protection Service is based in the White Dove offices on the same site as the MVSS. Ordinarily officers are able to respond very quickly to such events, usually whilst the driver and vehicle are still on site. If the assessment were to be outsourced, there would almost certainly be a delay in the services ability to dispatch a public protection officer to the garage to review the vehicle. Alternatively the driver could be required to present the vehicle to a public protection officer at an agreed location, which would further inconvenience the driver. This may deter any external garage providing the testing service from making any such referrals and so undermine the testing consistency currently maintained.

4.12 As a result of a Digital Services Review, on-line bookings for vehicle testing, payments and arranging for suspension notices to be lifted have now been introduced. A refresh of this digital provision is taking place which should bring about further improvements to the booking process.

4.13 Options and risks

1. Maintain the current arrangement:

This would ensure that the quality and consistency of the testing is maintained and would enable the current 'one stop shop' facility for testing, plates, renewal discs, suspending vehicles etc. to continue. The current garage can cope with demand and know the trade. Geographically Blackburn with Darwen is not an extensive area. The cost of the test is comparable with some of the neighbouring authorities.

With the significant number of vehicles within the fleet being 10 years or older and the high percentage of vehicles failing the MOT test on first presentation, a consistent and robustly managed testing regime provides reassurance to elected members, licensing officers and the public that vehicle safety is taken seriously within the borough.

This option does not, however, remove the regular challenge from trade that the council holds a monopoly. It should be noted that there are other aspects of the Department of Transport's "Taxi and

private hire vehicle licensing: best practice guidance” which the Council does not follow. This includes the limit on the number of hackney carriage licences issued which is currently limited to 70 within Blackburn with Darwen. The current best practice guidance says “Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice”.

2. Contract out to 1 other named testing station to provide an alternative to the Council run facility:

This would remove the challenge that the Council holds the monopoly, and could maintain the service provided by MVSS to some degree, however there is no guarantee that this would be the case.

Any testing station wishing to tender for this work would be required to meet criteria set by Blackburn with Darwen Borough Council. Additional work would be needed by staff in the tendering process, administration and contract monitoring which would ultimately affect the vehicle licence fees.

A full tender process would be required involving developing tender documents, advertising, evaluation of the submissions and contract awards. This would also involve officers from procurement and legal services and liaising with other agencies such as DVSA. There will also be GDPR (data protection) issues to consider. Current staffing resource within the Licensing Team would not be able to take on this work and a short term contractor/consultant would need to be engaged.

Robust contact monitoring procedures would be required which in some other authorities where testing is outsourced use mystery shopper type exercises.

It is likely that the Council would receive an increase in complaints about consistency between testing stations which would incur additional costs to investigate and resolve.

Where the alternative garage is used, once a vehicle passes the test, the owner would still need to visit MVSS to be issued with a licence plate or renewal disc.

If a vehicle required suspending as a result of the test, the vehicle would need to be taken to Davyfield Depot or would require an officer going out to the garage to issue the suspension. This again would result in additional costs for both the driver and the Council.

There is no guarantee that a new garage could cope with demand and there would be increased costs relating to the training of vehicle examiners at the new garage as they have no experience of the supplementary test over and above the MOT test.

There is an additional risk of a contracted-out garage suddenly ceasing trading and the associated work for the local authority would be significant – particularly if MVSS had reduced capacity, number of testers etc. as a result of decreased testing numbers.

3. Completely contract out the taxi testing provision to 2 or more named DVSA MOT testing stations:

Risks as described in 2 above.

Currently a vehicle examiner from MVSS carries out the safety inspections during evening taxi safety testing operations. Removal of the service from MVSS and consequent loss of staff and skill in this area could severely impact on the ability of the Council to carry out these operations to the current extent.

5. POLICY IMPLICATIONS

5.1 None

6. FINANCIAL IMPLICATIONS

6.1 If the provision of hackney carriage and private hire vehicle testing is out-sourced, there would be an as yet unidentified loss of income for the MVSS with the potential for staff redundancies. Alongside this would be loss of expertise.

6.2 Additional staffing would be needed to provide the necessary administration and contract monitoring operations, which would have to be recovered from the taxi trade by way of increased licence fees.

7. LEGAL IMPLICATIONS

7.1 The Local Government (Miscellaneous Provisions) Act 1976 section 50 sets out that licensed vehicles must be inspected and tested by or on behalf of the Council within such period and at such place as the Council may reasonably require. The intention of the legislator is to allow the Council to maintain full responsibility and control of the licensing process. The Council is legally empowered to undertake reviews such as this and come to a reasonable decision based upon all the relevant considerations with public safety being paramount.

7.2 If the decision was made to outsource it is worth noting that there would be additional resource implications for Legal Services in terms of drafting contracts and associated work plus legal support/advice to be given to the licensing officers who would be subsequently given the ongoing duty of supervising the contract and ensuring compliance with the terms of the contract.

8. RESOURCE IMPLICATIONS

8.2 Resource implications if outsourced would be:

- Procurement team – tender process
- Legal Services – legalities of the process
- MVSS – loss of expertise, cost of training

Licensing team – involvement in the tender process and ongoing monitoring of garages. Additional temporary staffing resource would be required for the tendering process.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 ☒ Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 ☐ In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3 ☐ In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

10. CONSULTATIONS

10.1 This report has been produced following a request through the Blackburn with Darwen Taxi Forum which performs a consultative forum for the taxi trade operating within the Borough. A specific agenda item was dedicated to the review at the Taxi Forum meeting held on 23 February 2022.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	Denise Andrews
DATE:	26 July 2022
BACKGROUND PAPER:	None