

GM Clean Air Charging Authorities Committee

Date: 13th October 2021
Subject: GM Clean Air Plan – Showmen’s Vehicle Exemption
Report of: Simon Warburton, Transport Strategy Director, TfGM

PURPOSE OF REPORT:

This report sets out a proposal to remove the requirement for owner or registered keeper of a Showman’s vehicle to be registered with the Showmen’s Guild in order to be eligible for the Showmen’s vehicle exemption to the GM CAZ. The proposal is made as this condition may exclude some vehicle owners on the basis of a membership to an industry body, rather than on their vehicle type. For all other exemptions, the vehicle is exempt due to a tax classification, permit or a specific age or type of vehicle (e.g., LGVs and minibuses adapted for a disabled user, Heritage buses and Driver training buses).

RECOMMENDATIONS:

The Clean Air Charging Committee is requested to:

1. Agree that the GM Clean Air Plan Policy is updated so that membership to the Showmen’s Guild is not a requirement for the Showmen’s vehicle exemption.
2. Agree that owners or registered keepers of a Showman’s vehicles need to apply for this exemption, as there is no national database of these vehicles.

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BOLTON

BURY

MANCHESTER

OLDHAM

ROCHDALE

SALFORD

STOCKPORT

TAMESIDE

TRAFFORD

WIGAN

Equalities Impact, Carbon and Sustainability Assessment:

The GM CAP is a place-based solution to tackle roadside NO₂ which will have a positive impact on carbon.

Risk Management:

Initial risk register set out in Clean Air Plan OBC (March 2019).

Legal Considerations:

The legal consideration has been set out in the GMCA report of the GM Clean Air Plan, published on 21 June 2021¹

Financial Consequences – Revenue:

Initial Financial Case set out in Clean Air Plan OBC (March 2019), with all development and delivery costs to be covered by central Government.

Financial Consequences – Capital:

Initial Financial Case set out in Clean Air Plan OBC (March 2019), with all development and delivery costs to be covered by central Government.

Number of attachments to the report: 0 (zero)

Comments/recommendations from Overview & Scrutiny Committee:

Not applicable

BACKGROUND PAPERS:

- 21 September, report to AQAC: GM Clean Air Plan – Clean Air Zone: Camera and Sign Installation
- 21 September, report to AQAC: GM Clean Air Plan – Bus Replacement Funds
- 25 June 2021, report to GMCA: GM Clean Air Final Plan
- 31 January 2021, report to GMCA: GM Clean Air Plan: Consultation
- 31 July 2020, report to GMCA: Clean Air Plan Update
- 29 May 2020, report to GMCA: Clean Air Plan Update
- 31 January 2020, report to GMCA: Clean Air Plan Update
- 26 Jul 2019, report to GMCA: Clean Air Plan Update
- 1 March 2019, report to GMCA: Greater Manchester's Clean Air Plan – Tackling Nitrogen Dioxide Exceedances at the Roadside - Outline Business Case
- 11 January 2019, report to GMCA/AGMA: Clean Air Update
- 14 December 2018, report to GMCA: Clean Air Update

¹ <https://democracy.greatermanchester-ca.gov.uk/documents/s15281/GMCA%20210621%20Report%20Clean%20Air%20Plan%20-%20FINAL%20FINAL.pdf>

- 30 November 2018, report to GMCA: Clean Air Plan Update
- 15 November 2018, report to HPEOS Committee: Clean Air Update
- 26 October 2018, report to GMCA: GM Clean Air Plan Update on Local Air Quality Monitoring
- 16 August 2018, report to HPEOS Committee: GM Clean Air Plan Update
- UK plan for tackling roadside nitrogen dioxide concentrations, Defra and DfT, July 2017

TRACKING/PROCESS
Does this report relate to a major strategic decision, as set out in the GMCA Constitution? No
EXEMPTION FROM CALL IN
Are there any aspects in this report which means it should be considered to be exempt from call in by the relevant Scrutiny Committee on the grounds of urgency? N/A
GM Transport Committee N/A
Overview & Scrutiny Committee N/A

1. BACKGROUND

- 1.1 The Government has instructed many local authorities across the UK to take quick action to reduce harmful Nitrogen Dioxide (NO₂) levels following the Secretary of State issuing a direction under the Environment Act 1995. In Greater Manchester, the 10 local authorities, the Greater Manchester Combined Authority (GMCA) and Transport for Greater Manchester (TfGM) are working together to develop a Clean Air Plan to tackle NO₂ Exceedances at the Roadside, herein known as Greater Manchester Clean Air Plan (GM CAP).
- 1.2 The core goal of the GM CAP is to address the legal requirement to achieve compliance with the legal Limit Value (40 µg/m³) for NO₂ identified through the target determination process in Greater Manchester in the “shortest possible time” in line with legislation and Government guidance.
- 1.3 The Secretary of State has issued a direction to the 10 local authorities in Greater Manchester in March 2020 that requires them to take steps to implement the local plan for NO₂ compliance, so that compliance with the legal limit for nitrogen dioxide is achieved in the shortest possible time, and by 2024 at the latest, and so that exposure to levels above the legal limit for nitrogen dioxide are reduced as quickly as possible.
- 1.4 An eight-week statutory consultation on the GM CAP proposals took place in Autumn 2020. A report that set out the Greater Manchester Final Clean Air Plan and policy following a review of all the information gathered through the GM CAP consultation and wider data, evidence and modelling work has been agreed by the ten GM Local Authorities.

- 1.5 This includes the GM Clean Air Plan Policy, that outlines the boundary, discounts, exemptions, daily charges of the Clean Air Zone as well as the financial support packages offered towards upgrading to a compliant vehicle, including the eligibility criteria to be applied.

2. INFORMATION

- 2.1 In the agreed GM Clean Air Plan Policy², a permanent exemption is listed for Showmen's vehicles. The exemption is described as:

Fairground/funfair vehicles which are registered with the Showmen's Guild, in the tax classification of Showman's HGV or Showman's Haulage under the DVLA Special Vehicles Tax Class and meet the definition of a 'showman's vehicle' or a 'showman's goods vehicle' within the meaning of section 62 of the VERA³.

- 2.2 It sets the rationale for the exemption as:

This group of vehicles includes a range of specialist and/or novel or adapted vehicles, where it may generally not be practical to upgrade to a vehicle compliant with the standards of the GM CAZ.

- 2.3 And provides further information of:

GM will need to be notified of the vehicles eligible for exemption registered with the Showmen's Guild, as there is no national database of these vehicles.

- 2.4 The inclusion of the Showmen's Guild membership was derived from looking at best practice from other schemes⁴ and feedback from the Guild.

- 2.5 Section 62 of the VERA states that:

"showman's goods vehicle" means a showman's vehicle which—

(a) is a goods vehicle, and

(b) is permanently fitted with a living van or some other special type of body or superstructure forming part of the equipment of the show of the person in whose name the vehicle is registered under this Act,

"showman's vehicle" means a vehicle—

(a) registered under this Act in the name of a person following the business of a travelling showman, and

(b) used solely by him for the purposes of his business and for no other purpose.

- 2.6 This report sets out a proposal to address the requirement for owner or registered keeper of a showman's vehicle needs to be registered with the Showmen's Guild. This proposal is made as it may exclude some vehicle owners on the basis of lack of membership to an industry body, rather than on their vehicle type. For all other exemptions, the vehicle is exempt due to a tax classification, permit or a specific age

²https://assets.ctfassets.net/tlpgbvy1k6h2/2VNncClzejAvGh3CrVn0oo/827368f3971b13b9d79525c7c7a6009/4/GM_Clean_Air_Plan_Policy_following_Consultation.pdf

³ Vehicle Excise and Registration Act 1994

<https://www.legislation.gov.uk/ukpga/1994/22/section/62?view=plain>

⁴ The Birmingham CAZ exemption conditions for Showman's vehicles include membership information: <https://www.brumbreathes.co.uk/info/29/exemptions-3/21/apply-exemption/11>

and type of vehicle (e.g., LGVs and minibuses adapted for a disabled user, Heritage buses and Driver training buses).

3. SHOWMEN'S VEHICLES

3.1 In late August 2021, TfGM met with members of the North West Section of the Showmen's Guild to discuss the vehicles exempt under the Showmen's Guild exemption and the process for exempting vehicles in the GM CAZ. In that meeting a number of issues were raised:

- The role of the Showmen's Guild in the exemption.
- The vehicles covered in the exemption; and
- Previous case law surrounding Showmen's vehicles – in which it was found that a magistrates' court had been correct to find that a lorry carrying a trailer and two refreshment kiosks that was used by a member of the Showmen's Guild at shows and fairs fell within the definition of a showman's goods vehicle within the Vehicle Excise and Registration Act 1994 and therefore was exempt from being tested as a goods vehicle under the Road Traffic Act 1988 and did not need to be taxed as a goods vehicle under the Vehicle Excise and Registration Act 1994. (Vehicle and Operator Services Agency v Kayes⁵).

3.2 Feedback from the Showmen's Guild on the exemption was that the vehicles included in the Showman's HGVs or Showman's Haulage Vehicle tax classes were mainly HGVs, and that many of their LGVs would not then be in scope for an exemption.

3.3 There has also been correspondence from the Society of Independent Roundabout Proprietors, an industry body whose members all operate heritage funfair rides and games throughout the UK. The Society of Independent Roundabout Proprietors did not respond to the 2020 consultation and reported to TfGM that they have an exemption for the London ULEZ in place and enquired about the exemption for their vehicles in the GM CAZ.

3.4 To be consistent with other exemptions (e.g., the Disabled Tax Class vehicles and Specialist HGVs) the proposal is that GM Clean Air Plan Policy is updated so that membership to the Showmen's Guild is not a requirement for the Showman's vehicle exemption. This would provide equity to non-Showmen's Guild members with Showman's vehicles, it would then be for all owners or registered keepers of Showman's vehicles need to apply for this exemption, as there is no national database of these vehicles.

4. RECOMMENDATIONS

4.1 The recommendations are set out at the front of the report.

⁵ <https://www.bailii.org/ew/cases/EWHC/Admin/2012/1498.html>