

LICENSING COMMITTEE

29 JULY 2014

REPORT OF CORPORATE DIRECTOR (PUBLIC EXPERIENCE)

A.1 HACKNEY CARRIAGE AND PRIVATE HIRE VISUAL INSPECTION SCHEDULE AND PROCESS FOR HACKNEY CARRIAGE AND PRIVATE HIRE PROPRIETORS THAT SEEK TO RENEW THEIR VEHICLE LICENCE BEYOND THE CURRENT MAXIMUM AGE OF TEN YEARS

(Report prepared by Simon Harvey)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
To consider and agree the Hackney Carriage and Private Hire visual inspection schedule and process for Hackney Carriage and Private Hire Proprietors that seek to renew their vehicle licence beyond the current maximum age of then years.

EXECUTIVE SUMMARY
<ul style="list-style-type: none">• The Committee will recall that at its meeting of the 8 April 2014 it agreed to a request submitted by the TDTA to review and amend the Council's policy on the maximum upper age limit that Hackney Carriage and Private Hire vehicles can be licensed for.• After consideration of this request, the Licensing Committee agreed to the following:<ul style="list-style-type: none">(a) the amendment of the current policy to allow saloon, estate and MPV type hackney carriage and private hire vehicles to be licensed up to, and including, a maximum of twelve years from the date that the vehicle was first registered provided that the vehicle was mechanically and bodily sound and was capable of passing the Council's hackney carriage and private hire vehicle inspection requirements;(b) the amendment of the current policy to allow purpose built wheelchair accessible hackney carriage and private hire vehicles and 'London black cab' style purpose built wheelchair accessible Taxi's such as the TX1's to TXIV range etc. to be licensed up to, and including, a maximum of fifteen years from the date that the vehicle was first registered provided that the vehicle was mechanically and bodily sound and was capable of passing the Council's hackney carriage and private hire vehicle inspection requirements; and(c) the adoption of a procedure, at a future meeting of this Committee, of visual inspection to be carried out by licensing officers for the interior and exterior of licensed hackney carriage and private hire vehicles at the time of renewal on the tenth and eleventh years for saloon, estate and MPV type vehicles and between the twelfth and fourteenth years for purpose built wheelchair accessible vehicles and 'London style' black cabs and to build in an appeal hearing process to the Licensing (General Purposes) Sub Committee for licence holders in the event of a refusal by licensing officers to renew a vehicle licence beyond its tenth year in respect of saloon, estate and MPV type vehicles and twelfth year for purpose built wheelchair accessible vehicles and 'London style' black cabs.

RECOMMENDATIONS

That the Licensing Committee agrees to the proposed criteria and items listed on the interior and exterior visual inspection schedule for hackney carriage and private hire vehicles to allow:

- (a) Saloon, estate and MPV type hackney carriage and private hire vehicles to be licensed up to and including a maximum of twelve years from the date that the vehicle is first registered and;
- (b) Purpose built wheelchair accessible hackney carriage and private hire vehicles and purpose built wheelchair accessible Taxi's such as the 'London style black cab's to be licensed up to and including a maximum of fifteen years from the date that the vehicle is first registered. (All hackney carriage and private hire vehicles would still be subject to the Council's twice yearly vehicle inspection schedule which requires it to be mechanically and bodily sound and capable of passing the Council's hackney carriage and private hire vehicle inspection requirements during the life of its licence).
- (c) The proposed procedure that the visual inspection will be administered under including the appeal process to the Council's Licensing (General Purposes) Sub Committee and which is shown attached to this report as APPENDIX 1 will be implemented with immediate effect.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The revision of the Council's current policy on the maximum upper age limit for hackney carriage and private hire vehicles from ten to twelve years for saloon, estate and MPV's and for purpose built wheelchair accessible vehicles and purpose built 'London style' taxis (black cabs) from twelve years to fifteen years taken by the Licensing Committee at its meeting of the 8 April 2014 will help to support the following Council corporate priorities:

Our Prosperity

Promote sustainable economic growth – by supporting the taxi trade in the District which as a trade sustains large direct and indirect employment.

Our People

Reduce health inequalities and disadvantage – by offering an incentive to taxi and private hire proprietors to purchase purpose built wheelchair accessible vehicles that they will be able to keep and licence for a longer period it will also offer mobility impaired passengers the opportunity for greater independence and public transport provision.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Staff or time costs for the Licensing team or Council associated with this process would already form part of the administration costs of the vehicle licence that the Council can reasonably recover as per Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976.

Any decision made by the Licensing Committee in regards to matters of grant, renewal, suspension or revocations of licences and its policies or conditions of licence can be further appealed by an appellant to the Magistrates' Court and from there to the Crown Court. In the event of the appeal being allowed by these Courts, the costs of any such hearing could be awarded against the Council. In terms of policy decisions, appeals are most likely to be challenged by way of a Judicial Review to the Queen's Bench Administrative High Court of appeal and again in the event of an appeal being allowed by this Court the costs of the hearing could be awarded against the Council.

Risk

Any risk to the Council may come from any potential legal challenge to its hackney carriage and private hire maximum upper age vehicle policy which could result in costs being awarded against the Council and a potential damage to its reputation should the Council lose any such challenge.

Legal Background

The Local Government (Miscellaneous Provisions) Act 1976 confers discretion on Councils to attach conditions to the grant of hackney carriage and private hire driver, vehicle and operator licences as it may consider reasonably necessary.

As with all other areas of its activity, a local authority is entitled to adopt policies in relation to hackney carriage and private hire licensing. Policies are an integral part of the decision making process and should be used to inform, guide and provide a valuable aid to the decision makers in assisting them with consistent decision making.

There is no statutory requirement upon a local authority to set hackney carriage or private hire policies and instead policy will be developed and evolved voluntarily and organically by a Licensing Committee to assist with its consistent decision making. Policies should not fetter the discretion of a Licensing Committee however and it continues to be the case that regardless of policy, each request, review, application, or case must be considered and decided in its own right and on its own merits taking into account the policy in question. Therefore a policy is there to guide a local authority or its Licensing Committee in its decision making process, not to bind it.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Human Rights Implications

A licence is to be regarded as the property of the holder and their right to the use of that property must be balanced against any other public interest in this matter.

CRIME AND DISORDER

There are no crime and disorder implications.

EQUALITY AND DIVERSITY

The revised maximum vehicle age policy which is a local policy will be applicable to all hackney carriage and private hire vehicle licence proprietors. Other Councils have different age limit policies, but the legislation (Local Government (Miscellaneous Provisions) Act 1976 allows for the setting of reasonable and proportionate local conditions and differences between Local Authority areas to suit local circumstances and requirements.

By increasing the maximum upper age limit for purpose built wheelchair accessible vehicles and purpose built London type/style taxis it may help to promote greater opportunities for travel in taxis and private hire vehicles by persons who experience mobility impairment.

AREA/WARDS AFFECTED

All

CONSULTATION

The Licensing Manager has consulted with two nominated Committee members of the TDTA (Mr Bryan Place and Mrs Sue Russell) regarding the criteria proposed for the interior and exterior vehicle visual inspection schedule and the appeal process for this inspection **(as shown on Appendix 1 to this report)**.

No negative comments or requested amendments to the proposed interior and exterior vehicle visual inspection schedule and the appeal process have been received from the TDTA and it is the Licensing Managers understanding from Mr Place that the proposed inspection schedule has also been discussed and agreed at the TDTA's Annual General meeting held in May 2014.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

As it is a visual inspection of the vehicle interior and exterior only it will be carried out by licensing officers using an objective and proportionate judgement on the interior and exterior condition of the vehicle and whether that condition was of a reasonably good standard to be able to extend the licensed life of the vehicle for a further year. A pro-forma check list has been devised for this purpose and consultation has taken place with hackney carriage trade representatives to ensure that they feel the criteria applied are fair, reasonable, transparent and proportionate. **This check list is attached to this report as APPENDIX 1.**

Licence holders will have the opportunity to make any restoration to the vehicle interior or exterior that the licensing officer thinks is reasonably necessary in order for the vehicle to be of a sufficiently good standard to warrant a further renewal of licence for that year up to a maximum renewal age of twelve years for saloon, estate and MPV's, or fifteen years in the case of purpose built wheelchair accessible vehicles or 'London style' cabs.

Such an inspection will not be prohibitively time consuming or intensive for licensing officers to undertake, particularly given that there is sufficient room and parking space at Weeley offices to be able to carry out such a visual inspection.

A prior appointment must be made by the licence holder for such an inspection to be carried out however. Officers would not be able to accommodate vehicle licence holders arriving for such inspections without an appointment having been made and therefore prior confirmation that a relevant officer is available to carry out a visual inspection will be necessary for both parties concerned.

A pass or fail notice will be given to the licence holder with reasons given as to why a vehicle failed and what remedial work is required in order to bring it up to a good standard.

Photographs of the vehicle interior and exterior would also be taken by the licensing officer which will be retained on file as confirmation that the vehicle was of a sufficiently good standard to be licensed for a further year and may also be used in the event of any dispute between the licensing officer and licence holder over the condition of the vehicle when presented for its visual inspection.

Provided that the taxi trade agrees to strictly adhere to the requirements detailed above, then it is not proposed that any inspection fee should be levied and these visual inspections can be accommodated as part of the licensing team's planned inspection work. It is also not anticipated that there would be large or unmanageable numbers of these visual inspections over the course of a year.

It is prudent, fair and proportionate to build in a process for hackney carriage or private hire vehicle licence holders to be able to appeal to the Licensing (General Purposes) Sub Committee any refusal of a licensing officer to renew a vehicle licence on the basis of a visual inspection at the time of its tenth and eleventh year renewal application in respect of saloon, estate or MPV type vehicles and its twelfth, thirteenth and fourteenth year of vehicle licence renewal application for purpose built wheelchair accessible vehicles and 'London style' black cabs.

As part of that process, the Licensing (General Purposes) Sub Committee can then arbitrate over such an appeal and decide its outcome taking into account the inspection report, the licence holders opinion, photographic evidence taken by the licensing officer at the time of the visual inspection and any other supporting written or oral evidence and also Members own visual inspection of the vehicle at the time of the appeal hearing, should it be necessary.

It is not anticipated however that there should be many occasions where the vehicle licence holder and licensing officer are unable to reasonably resolve any dispute between them without the need to appeal the matter to the Licensing (General Purposes) Sub Committee.

CURRENT POSITION

As already detailed in supporting information

BACKGROUND PAPERS

None

APPENDICES

APPENDIX 1 – Draft Interior and Exterior Visual Inspection Schedule for Hackney Carriage and Private Hire Vehicles

Vehicle Reg No Make Model

Colour Mileage Plate No.

Permitted Seating Capacity..... Proprietors Name **APPENDIX 1 TO A.1**

Code	Method of Inspection	Reason for Refusal	Accepted (pass is tick in category box below)
Interior			
1	Passenger courtesy lights operate correctly.	a. the passenger courtesy lights are inoperative.	
2	Passenger seats are in good condition and the inner fibre is not exposed.	a. the passenger seats are not in good condition or the inner fibre is exposed.	
3	All passenger doors allow safe access and egress for the number of passengers.	a. there is insufficient space to allow safe access and egress for the number of passengers	
4	The condition and cleanliness of passenger compartment interior and fittings	a. passenger compartment and or fittings unclean or interior has been poorly renovated.	
5	The luggage area is uncluttered, is suitable for use and is capable of carrying the amount of luggage for which the vehicle was designed.	a. the luggage area is unsuitable for use and is not capable of carrying the amount of luggage for which the vehicle was designed.	
Exterior			
6	There is no evidence of significant damage to the external body panels.	a. there is evidence of significant damage to the external body panels.	
7	That there is no evidence of significant rusting or corrosion resulting in sharp protruding edges	a. there is evidence of significant rusting or corrosion with sharp protruding edges	
8	The paintwork is finished and presents a satisfactory appearance.	a. paintwork is poor and presents an unsatisfactory appearance.	
Interior & Exterior			
9	All passenger doors and windows open and close securely	a. passenger door or doors / windows cannot be open and closed securely.	
10	The content of any external signage/advertising complies with TDC HCV & PHV regulations/conditions	a. the content of any external signage/advertising does not comply with TDC HCV & PHV regulations/conditions	

Date Vehicle Inspected	Licensing Officer Inspected (Print & Sign)	Pass <input type="checkbox"/>
		Fail <input type="checkbox"/>

- Applicants requesting 10 and 11 year vehicle licence renewals for saloon, estate and MPV type vehicles will be subject to satisfactorily passing this visual inspection.
- Applicants requesting 12, 13 and 14 year vehicle licence renewals for purpose built wheelchair accessible vehicles including 'London style' black cabs will be subject to satisfactorily passing this visual inspection.

Photographs will be taken by the licensing officer of the vehicle interior and exterior. These can be used or referred to by either the licensing officer or applicant in the event of an appeal to the Council's Licensing (General Purposes) Sub Committee against a refusal to renew the vehicle licence for the years shown above as bullet point items.

Applicants have a choice whether to address the items shown in the visual inspection schedule as 1-10 immediately and on satisfactory completion they will be passed by the licensing officer, or they can appeal the licensing officer's decision to the Council's Licensing (General Purposes) Sub Committee whose decision on the matter will be final.

Any further appeal against a refusal to renew the vehicles licence in accordance with the Council's policy outlined in the above schedule and bullet points must be made to the Magistrates Court.

Serial Number:

This policy was approved by the Licensing Committee at its meeting of the 29 July 2014.