

**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE - 1st MARCH 2012**

Background Papers, if any, are specified at the end of the Report

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 –
REVIEW OF THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING
POLICY.**

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Matter for Consideration:

- 1 To consider suggested revisions to the Hackney Carriage and Private Hire Policy in respect of the licensing and control of Hackney Carriage and Private Hire vehicles, drivers, proprietors and operators. This report details items that are recommended for consideration and if approved, would be the subject of consultation with the public, trade and other agencies.
- 2 The recommendations are derived from best practice. In addition, Members may wish to ask for matters to be considered in the review.
- 3 A summary of the proposals is presented below.

For Immediate implementation

To amend the conditions of licensing to enable a ‘License Suspended’ notice to be displayed on licensed vehicles.

- 4 All licensed vehicles must be maintained in a roadworthy condition at all times whilst licensed. The Council has recently approved four VOSA registered garages to undertake the vehicle safety inspections. This was undertaken in the interests of public safety to improve both the consistency of vehicle inspection and to allow for the rapid ‘pass or fail’ notification to the Council of a vehicle test.
- 5 Since the contract implementation of 1st February 2012 the Council has received notification of 5 ‘fails’ due to the vehicle not being roadworthy. The reasons for failure range from illegal tyres, worn brakes, and transmission failure issues. These vehicles are currently licensed with the Council and have been required to attend the 6 monthly inspection.
- 6 Prior to the contract being in place, the Council did not receive notification of vehicle failures from the garages. Vehicle owners would undertake the relevant repairs and obtain a pass certificate. During the period to undertake the repairs it is possible that the vehicle was used for hire.
- 7 To prevent a failed vehicle being used, an Authorised Officer or Police Constable not satisfied as to the fitness of the vehicle may suspend the vehicle until such time as they are so satisfied.

- 8 The legislative procedure requires a notice to be served under Section 68, Local Government (Miscellaneous Provisions) Act 1976; this notice must suspend the vehicle licence and request the return of the licence plates. Section 58 then allows the licence holder a period of 7 days to return their plates.
- 9 This presents a risk that licence holders may continue to use a suspended vehicle for work during the 7 day period, as the vehicle would appear to still be licensed, and members of the public would have no idea that the vehicle had been suspended for being un-roadworthy.
- 10 Vehicle conditions cannot be used to over ride legislation and allow an authorised person to remove a licence plate with immediate effect. However, it is silent over the use of other enforcement methods to stop vehicles being used.
- 11 To prevent an un-roadworthy being used an adhesive 'Licence Suspended' notice could be positioned over the external plate, demonstrating to potential users that the vehicle is not licensed. Such a sticker could be applied by an authorised officer or police officer.

RECOMMENDATION

To amend the conditions of Hackney Carriage Vehicle licences, and conditions of Private Hire Vehicle licences to require a licence holder to display a "Licence Suspended" plate on the rear of the vehicle during the permitted seven day period provided by Section 58 following the service of a Section 68 notice on their vehicle.

To permit an Authorised Officer of the Council, to attach the "Licence Suspended" sign to the vehicle following its suspension

Options for Consideration:

Vehicles

All Hackney Carriage roof signs to be a minimum of 18 inches wide to clearly distinguish them from other road users

- 12 Hackney Carriages must have a roof sign stating the word "TAXI" securely attached to their vehicle at all times.
- 13 However, the size of the signs used by the trade varies. To help members of the public clearly identify an approaching Hackney Carriage, the Licensing

Authority proposes to make the minimum size of "TAXI" roof signs 18 inches wide.

- 14 Although Best Practice guidance does not stipulate that roof signs should be a certain size, it does state that it is important to distinguish between a Hackney Carriage and a Private Hire vehicle.

RECOMMENDATION

To amend the existing conditions to require roof signs for a Hackney Carriage to be a minimum of 18 inches wide and /that only the words TAXI on the front and rear of the roof sign may be displayed. (save for purpose built Hackney Carriages with inbuilt roof signs)

Age of Vehicle

- 15 The current policy states all vehicles must be less than 4 years when first licensed, and no older than 10 years in the case of subsequent renewals. However, the ability to exceed these limits if the vehicle complies with the standards of conditions of appearance and passes an MOT and Compliance test exists
- 16 In order to help provide a modern fleet that complies with Euro standards on safety and on emissions it is proposed that vehicles should be no older than 4 years at initial application and no older than 10 years on subsequent renewal. The appearance condition would help inform proprietors of the vehicle standard that must be maintained at all times whilst licensed, and would no longer be a reason to licence an older vehicle.
- 17 Furthermore, it is recommended that no application to change an existing licensed vehicle will be granted where the proposed vehicle is older than the vehicle being replaced. This would ensure that the fleet's age does not regress.

RECOMMENDATION

To amend the conditions to require that licensed vehicles should be

- 1) no older than 4 years at initial application and**
- 2) no older than 10 years on subsequent renewal.**

AND

To amend the Policy to refuse to grant a change of vehicle where the proposed vehicle is older than the existing vehicle.

Clarification of requirements to be eligible for executive exemption

- 18 Our current policy requires all Private Hire vehicles to carry door signs during the currency of the licence, unless the licence holder can satisfy the licensing authority that the work they carry out is executive in nature. At present there is no formal framework guiding how this decision is made.
- 19 In order to enable licence holders to obtain an executive plate it is now recommended that the information listed below is submitted to the licensing officer prior to the granting of any exemption certificate.
- 20 It is suggested that the information is reviewed on an annual basis during the licence renewal period, with the licensing team making a decision as to whether the exemption is still valid. The Licensing Authority's decision will be final in all cases.
- **Identification of vehicle/s involved.** Full details of the vehicles being used, including make and model of vehicle, vehicle registration, licence details, owner's details and full name and address of the driver using the vehicle.
 - **Nature of work carried out by each vehicle** (which must be work of a prestigious nature, as opposed to ordinary Private Hire work) detailing each of the contracts and information on the number of journeys used as part of each contract. The predominant use (80%) of the car must be for contract Private Hire for which a written contract is in existence.
 - **Identities of all business clients** served by the vehicle(s) identified. Full name, address and details of business clients including contact name, telephone number and website address and companies house registration number. A copy of the contract between the parties must be provided.
 - **Proportion of each vehicle's work, which is derived from each, named business client.** i.e. on a weekly basis how often will you be working for each individual client
 - **Written confirmation from the business clients named.** A letter will be required confirming use of your services and confirming reasons why normal licence plates are not to be displayed.

RECOMMENDATION

To amend the Policy to clarify when a vehicle will be considered for executive exemption.

Limousines, Vintage, and Novelty Vehicles

- 21 The Authority has been approached on a number of occasions by individuals wishing to licence stretched limousines, and unusual vehicles like fire engines for Private Hire work.
- 22 Any stretching of a vehicle, or use of a vehicle for a purpose other than its intended use generally takes it outside of the manufacturer's original specification, and safety testing that may have been conducted. Therefore, there are significant public safety issues to be addressed when licensing such vehicles. Our current requirements and conditions of licence rule out the possibility of licensing these types of vehicles due to a number of reasons.
- 23 Any change to conditions may open the Council's standard requirements to only allow a vehicle with a type approval certificate to be challenged.
- 24 Department of Transport's Best Practice Guide 2010 states that such vehicles have a legitimate role to play within the Private Hire trade. The DoT suggests licensing such vehicles to bring the vehicle, operators and drivers within the licensing provisions enabling controls.
- 25 Member's views are sought on amending the conditions to permit the licensing authority to licence these vehicles.

RECOMMENDATION

To consider amendment to the policy to introduce a "Non-Standard" Private Hire Vehicle category.

Options for Consideration:

Drivers

To consider introducing a new three year badge for Private Hire and Hackney Carriage drivers.

- 26 The current policy of the Authority is to licence both vehicles and drivers for a maximum period of one year.
- 27 Legislation requires that vehicles must be licensed every year. However, driver's badges can be issued for up to a maximum of 3 years.
- 28 The trade has requested that we introduce 3 year driver's badges for all issued licences.
- 29 Best Practice Guidance suggests that where an Authority is minded to introduce 3 year licences, it should also consider continuing to offering annual licences.

- 30 The introduction of the 3 year licence may lower the Council's administrative costs, but may have an adverse impact on the level of income generated.
- 31 Any change would require a review of fees and charges.

RECOMMENDATION

To consider the introduction of a three year licence for Private Hire and Hackney Carriage driver's badges and to review the fees charged

All applicants registered in the UK for less than 5 years be required to submit a certificate of good faith from their national embassy - Best Practice Guidance Recommendation

- 32 The authority conducts enhanced Criminal Records Bureau checks on all applicants. However, these checks only verify convictions or cautions registered within the United Kingdom, and so there is no knowledge of any possible criminal history from elsewhere in the world.
- 33 The Licensing Authority proposes to amend its licensing policy to include the Department of Transport's Best Practice recommendation to require all new applicants registered in the UK for less than 5 years to submit a certificate of good faith from their National Embassy as part of their application for a driver or operator licence.

RECOMMENDATION

To amend the policy to require all new applicants registered in the UK for less than 5 years to submit a certificate of good faith from their national embassy as part of their application for a driver or operator licence.

To relax the current medical requirements

- 34 The taxi licensing policy currently requires as part of the Fit and Proper Person test that a medical certificate is required with any application for a Hackney Carriage or Private Hire driver's badge.
- 35 The trade have suggested that this requirement is over burdensome and requested a change to the condition, to allow drivers holding a current licence to apply for a Private Hire or Hackney Carriage driver's licence without an additional medical costing between £70 and £120.

- 36 Whilst under licence a driver is duty bound via conditions to notify us of any changes in their personal medical status. Section 57 (2)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976 states a licensing authority may require an applicant to produce a medical certificate signed by a registered medical practitioner to accompany any application.
- 37 The impact of relaxing this particular requirement of an application is that the Authority would have to rely on an old medical examination when issuing an alternative licence or on the honesty of the individual to self declare a change in their medical status upon application.
- 38 Alternative approaches include the issue of a dual licence to all drivers applying for a Hackney Carriage and a Private Hire driver's licence. This would not reduce the Council's administrative costs, but would reduce the licensing income. Any change would require a review of fees and charges.
- 39 Alternatively, the Council could commission a medical advisor to issue all medical examinations and charge a standard fee.

RECOMMENDATION

To consider the approach to be adopted.

Disability Awareness Training – Best Practice Guidance Recommendation

- 40 The Licensing Authority is increasingly in receipt of complaints relating to the treatment of persons with various mental and physical disabilities.
- 41 This treatment is usually born out of ignorance of the person's condition, and of the law itself. This matter was also raised by disabled persons at the NHS transport symposium on Better Healthcare in Buckinghamshire. It was considered that Hackney Carriage drivers should be trained in dealing with disabled persons.
- 42 A disability awareness test and training could be introduced via the DSA or other suitable organisation to new and existing applicants, and drivers asked to pass the test within a suitable timeframe.

RECOMMENDATION

To consider amending the policy to introduce a disability awareness test

To consider amendments to the Hackney Carriage and Private Hire Enforcement policy

- 43 The current enforcement policy has regard to the Home Office guidance on the consideration of offences committed by applicants and licence holders.
- 44 The guidance enables the consideration of the penalty to be applied to licence holders or the period that must elapse before an application may be permitted from a new applicant. The policy however has little advice on how consideration may be given to an applicant who has committed multiple offences over a period of time.
- 45 It is recommended that the policy is reviewed to address how multiple offences may be applied to new applicants.
- 46 The policy also does not contain a system to guide the application of enforcement outcomes.
- 47 Several authorities have devised a “points system” that may be applied to existing licence holders for breaches of conditions. This enables a gradual application of standards and avoids the risk of appeal if a suspension is determined for minor infringements whilst providing a greater degree of control than a verbal or written warning would do.

RECOMMENDATION

To consider the introduction of a penalty points system

To consider the impact of multiple offences on applicants for licences.

Background papers: None
