

SUBJECT:	Consideration of South Bucks District Council adopted policy approach to tinted windows on hackney carriage and private hire vehicles
REPORT OF:	Officer Management Team - Director of Services Prepared by - Head of Health and Housing

1. Purpose of Report

- 1.1 To allow members to consider whether the Council's current adopted policy approach to tinted windows on hackney carriages and private hire vehicles should be amended.

2. Links to Council Policy Objectives

- 2.1 There is a link between an efficient taxi and private hire licensing service with appropriately licensed drivers and vehicles and the council's policy objective for safer and stronger communities.

3. Background

- 3.1 The Local Government (Miscellaneous Provision) Act 1976 allows Local Authorities to licence and specify conditions in relation to the control of hackney carriages and private hire vehicle operators, vehicles and drivers. Section 47 of this legislation allows a district Council to attach reasonably necessary conditions to the grant of a hackney carriage licence, including conditions relating to tinted windows. Section 48 of this legislation requires an application for a private hire vehicle licence to be refused unless the Council is satisfied that the vehicle is suitable in type, size and design for use as a private hire vehicle, is not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage, is in suitable mechanical condition and is safe and comfortable.
- 3.2 The Road Vehicles (Construction and Use) Regulations 1986, as amended, specify the minimum levels of light that must pass through the front windscreen and front side windows of vehicles generally, these are 75% and 70% respectively. There is no legislation governing the level of tint on rear side and rear windscreen of vehicles generally.
- 3.3 South Bucks District Council's Hackney Carriage & Private Hire Licensing Policy, adopted on 11 December 2007 and reviewed on 12 April 2011, states at paragraph 4.4 & paragraph 7.4 "Type of Vehicle", sub paragraph 9, on pages 15 & 40 "in the interest of Public Safety, tinted windows must be approved at inspection by a Licensing Officer prior to the licensing of the vehicle. Any vehicles inspected that give rise to concern for Public Safety shall be referred to the Licensing Sub Committee for determination" thereby giving discretion to members as to whether to grant a licence having considered all the circumstances relating to the application, the vehicle and public safety.

3.4 On 14 August 2013 the Licensing Sub Committee considered an application for a private hire vehicle licence in respect of a vehicle that officers had declined to licence. The Officers report stated that due to the very heavy level of tint on the rear windows and rear windscreen of the vehicle it was not possible to see clearly into the rear of the vehicle even when standing very close to it and this gave rise to concerns about public safety. The amounts of light transmitted through the vehicle windows had been measured by officers as follows:

Front windscreen	-	79%
Front side windows	-	70.4%
Rear side windows	-	9.6%
Rear windscreen	-	9.6%

3.5 The Licensing Sub Committee resolved to allow the vehicle to be licensed because that they were satisfied that the vehicle was not unsafe in that they could see into the rear of the vehicle sufficiently well. Members also noted that the vehicle would be licensed in London.

3.6 Having granted the application, the Licensing Sub-Committee requested officers submit a report to the next Licensing Committee with information regarding the tinting of windows to enable Members to review this policy and consider whether it should be amended in order to provide further clarity and consistency.

4. Discussion

4.1 Excessively tinted windows in the front screen or front side windows are prohibited by law on all vehicles as a result of the possibility that they may restrict the driver's vision especially in dark conditions and may prevent drivers from seeing other road users or pedestrians. They may also prevent other road users and pedestrians from confirming through eye contact that they have been seen. Light tints on front windows are permitted and may assist in reducing glare.

4.2 Excessively tinted windows in rear passenger windows and rear screen are not prohibited by law on any vehicles, but are commonly prohibited by local authorities in relation to vehicles which are licensed as taxis and private hire cars on safety grounds. Generally dark tinted rear windows are installed (or manufactured) for privacy reasons. Dark tinted windows are of concern when fitted to licensed vehicles as they restrict the view of passengers travelling in the vehicle from those outside. If a passenger were to be in difficulty inside a vehicle with heavily tinted windows the passenger would not be able to be seen from outside and this would prevent the passenger from attracting attention. In addition, the presence of very dark tinted windows in the rear of a vehicle restricts effective enforcement in that officers would be unable to observe whether a vehicle was overcrowded.

4.3 In view of these concerns and the need to ensure vehicles are safe for public use, many local authorities have adopted policies relating to restricting the level of tint permitted on the windows of private hire vehicles. Specific policies of local authorities in the area are as follows:

- 4.3.1 Chiltern District Council - All glazing should allow clear view of the passengers within the vehicle. All vehicles will be tested with a light meter. Any vehicle with a reading lower than the following will not be licensed. Front windscreen 75, Front Side Windows 70, all other windows 30.
- 4.3.2 Bracknell Forest District Council - The front driver and passenger windows are required to meet the legal requirements relating to tinted windows under the Road Traffic Regulations. For safety reasons it should be possible to observe the driver and passengers being carried. Many vehicles are used for the carriage of children and vulnerable persons, and for this reason dark tinted windows which prevent clear vision into the vehicle are not permitted. Vehicles which have been granted a dispensation licence may be granted an exemption from this requirement.
- 4.3.3 Slough Borough Council - Light transmitted through the windscreen must be at least 75%. All other windows must allow at least 70% of light to be transmitted. Exceptions to limiting the tint on the rear windows can be made providing the following criteria can be met: 1. the vehicle is used predominantly for contract hire/corporate working where no cash is exchanged. 2. the vehicle is a stretched limousine or prestige/executive type (eg Mercedes, BMW, Audi).
- 4.3.4 Watford Borough Council - Reasons for rejection - tinted window too dark to allow view into vehicle from immediately outside the window in normal daylight conditions. Smoked glass windows are permitted within normal MOT tolerances. (Officers from Watford Council have confirmed that they do permit tinted windows if the windows are factory fitted, although this would seem to contradict their written policy).
- 4.3.5 High Wycombe District Council - In the interests of public safety tinted windows are not permitted on licensed vehicles unless a minimum of 75% light is transmitted through the front windscreen and 70% light is transmitted through all other glass on the vehicle. An exemption is in place for vehicles which have been designated in writing for executive use and those which were licensed prior to the introduction of this requirement.
- 4.3.6 Reading Borough Council - Windows of vehicles licensed for private hire purposes must meet the following requirements in that the windscreen of any vehicle must allow at least 75% of light to be transmitted through it, front side window must allow at least 70% of light to be transmitted through them and rear windows, including the rear screen must allow at least 65% of light to be transmitted through them.
- 4.3.7 The position adopted in London is different - The taxi Conditions of Fitness document 2007 defines vehicle design and manufacturer specifications for licensed taxis in London. Section 18.2 - 18.4 defines the specific design and safety standards for passenger windows and passenger visibility. 18.3 states "windows must permit maximum visibility into and out of the vehicle. They must have no more than 25% tint value". Level of tint of private hire vehicles is not controlled in excess of the legal requirements of the Road Vehicles (Construction and Use) Regulations. The difference in standards is explained as being due to the different methods of hire.

“Taxis can ply for hire at any time, and pick up passengers at any time, it is therefore important that good visibility into and out of the vehicle is maintained to ensure passenger safety and comfort. Furthermore, the amount of light coming into the vehicle is also important to ensure that passengers with sight impairments and wheelchair users have sufficient light to assist with orientation around the vehicle and seating positions. Licensed private hire vehicles are pre-booked and passengers can specify a choice of vehicle type they wish to travel in, including the request to have a vehicle with or without tinted windows”.

4.4 South Bucks current policy approach to tinted windows on licensed vehicles has been in place for a number of years now. The issue of heavily tinted windows has arisen on a number of occasions since the adoption of the policy. In all cases encountered so far, with the exception of the case referred to Licensing Sub Committee on 14 August 2013, owners of vehicles with tinted windows that have given officers cause for concern regarding public safety have either decided not to apply to licence those vehicles, or more commonly replaced the tinted windows and licensed the vehicles with windows which meet the policy requirements. As a result of the decision of the Licensing Sub Committee officers are also seeking clarification regarding the Council’s policy in order to be consistent when dealing with future applications involving vehicles with tinted windows.

4.5 There are a number of options available to the Licensing Sub Committee in reviewing the policy in respect of tinted windows:

a) To make no amendment to the existing policy.

b) To bring South Bucks policy in line with London and not specify any maximum level of tint, other than that required by law for all vehicles:

Front windscreen	-	75%
Front side windows	-	70%
Rear side windows	-	No limit
Rear windscreen	-	No limit

c) Bring South Bucks policy broadly in line with the majority of other local authorities operating in this area:

Front windscreen	-	75%
Front side windows	-	70%
Rear side windows	-	70%
Rear windscreen	-	70%

d) Bearing in mind the current shared service approach being implement between the Licensing Departments of Chiltern and South Bucks, bring South Bucks policy in line with the current Chiltern policy:

Front windscreen	-	75%
Front side windows	-	70%
Rear side windows	-	30%

Rear windscreen - 30%

- 4.6 Officers recommend that an approach in line with Chiltern District Council's current approach be proposed for adoption.
- 4.7 Any proposed amendments to the current policy would not apply to any existing licensed vehicles or in respect of renewal licence applications but would apply to new applications received after any amendments had been adopted by full Council.
- 4.8 In the event that the Licensing Committee resolve that it is appropriate to amend the existing policy relating to tinted windows a consultation exercise will need to be undertaken and the views of interested parties taken into account before any proposed new policy could be recommended to full Council. If a new policy is to be adopted it is proposed that an 8 week consultation exercise be undertaken, the results of which will be reported back to the Licensing Committee for their consideration on Wednesday 29 January 2014.
- 4.9 Following consideration of the results of a consultation exercise, if appropriate, any proposed amendments would need to be recommended to full Council for adoption at the meeting of 25 February 2014.

5. Resource, Risk and other Implications

5.1 Resource:

- 5.1.1 The cost of carrying out this review and the consultation process if applicable will involve staff time and resources, but these costs will be met within the existing budget.
- 5.1.2 If an applicant for a vehicle licence appeals against the decision of either officers or the Licensing Sub Committee this would result in legal fees to defend the appeal and further costs which we would seek to recover if the appeal was unsuccessful. In the event of a successful appeal the Council may also have to pay the applicants costs.

7.0 Recommendation.

- 7.1 Members review the policy regarding the tinting of windows and consider whether it should be amended in order to provide further clarity and consistency.
- 7.2 If Members resolve to amend the policy that an eight week consultation exercise be undertaken to seek views of interested parties on the proposed amendments and the result of the consultation exercise be reported back to the Licensing Committee on 29 January 2014 for consideration.

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Background Papers:	Hackney Carriage & Private Hire Licensing Policy & Associated Documentation Date of Adoption 11 th December 2007, First Review 12 th April 2011.