

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 the results of a six week consultation exercise concerning proposals to amend the Council's current adopted policy approach to tinted windows fitted in hackney carriages and private hire vehicles.

## 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 On 9 October 2013 the Licensing Committee considered a report concerning the Council's current approach to tinted windows on hackney carriages and private hire vehicles. The Committee determined that a new policy wording permitting only a 30% tint on rear vehicle windows of taxis and private hire vehicles was appropriate, but that no limits on tints on rear windows of vehicles meeting the Council's dispensation requirements would be imposed. A consultation exercise concerning the proposed new policy was subsequently undertaken.
- 3.2 On 29 January 2014 the Licensing Committee considered the results of the consultation exercise, along with notes of a meeting held on 28 January 2014 between the Licensing Manager, the Chairman of the Committee and 14 licensed drivers. Rather than recommending the policy wording approved on 9 October 2013 to full Council for approval the Committee resolved to undertake another consultation exercise seeking views on the following revised policy wording:

***“Light transmitted through the front windscreen of hackney carriages and private hire vehicles must be at least 75%. Light transmitted through the front side windows of hackney carriages and private hire vehicles must be at least 70%. All other windows including the rear windscreen must allow at least 30% of light to be transmitted. Exceptions to this policy will be permitted for executive private hire vehicles which meet the Council's dispensation requirements i.e. vehicles which are exempt from displaying licence plates as set out in the Council's Hackney Carriage & Private Hire Licensing Policy. There will be no limit on the level of tint permitted on rear passenger windows and rear windscreen of private hire vehicles meeting the dispensation requirements. Executive private hire vehicles meeting the dispensation requirements will be required to meet the requirement for 75% and 70% of light to be transmitted through the front windscreen and front side windows respectively”.***

## 4. Discussion

- 4.1 The consultation exercise commenced on 4 April 2014 and concluded on 16 May 2014. Details of the consultation were posted on the Council's website, letters were sent to all

private hire and hackney carriage drivers and operators, South Bucks District Councillors, Parish Councils and a number of other individuals and organisation who officers believed may have been interested in contributing to this consultation. A link to the consultation was also posted on the Council's Twitter feed and an article concerning the consultation appeared in the Bucks Advertiser on Thursday 24 April 2014.

- 4.2 Seven responses to the consultation exercise were received, as detailed below. Of the responses received two appear in favour of the proposed new policy approach, three appear in favour of a more relaxed policy approach and two appear in favour of a more restrictive policy approach.
- 4.3 Responses in favour of proposed new policy wording:
- 4.3.1 Amir Davami, GX Cars - thanks for informing me about policies regarding use of tinted windows in private hire vehicles. I am in favour of passage of up to 30% light on the rear windows.
- 4.3.2 Steve Hay, Councillor, Chair of Highways & Partnerships Committee on behalf of Iver Parish Council - I think the 70% versus 30% argument is relevant but I'm a little concerned as to why South Bucks should be legislating this. I'd have thought a more 'national' legislation would be more logical as we're talking about vehicles, and they do, by design, move from area to area. So, any legislation should be considered against neighbouring authority legislation. Essentially, I'd say that this should be decided by central govt., rather by local authorities. It could bring differences of opinion into play, and imagine if a vehicle SBDC had said was good, was to drive into central London where the law was different, how difficult would that become. Anyway, I'd give the 70% my vote, ie, to allow 30% of light through the rear side windows. That is roughly the same as the sun-shield sold by most high-st car accessory stores, ie Halfords. It affords some privacy as well as protecting from the sun, but is not totally 'blacked' out.
- 4.4 Responses in favour of a more relaxed policy approach:
- 4.4.1 Ajaib Hussain - just want to let know my point of view for tinted windows, should be allowed factory fitted vehicles, anything else should be removed.
- 4.4.2 Abid Khan - I would like all the cars that are tinted at the factory floor to be passed by the Council. If it is all right by the companys that make the cars and the government it should be all all right by South Bucks Council. What are we supposed to do buy light meters when we have to change our cars to see what if is's above or below 70%.
- 4.4.3 Amjad Mahmood - I dont agree with the policy regarding having up to 70% rear tint windows . The council is dictating to me as to which taxi I am eligiable to drive. My car is up for renewal and I am interested in the Mercedes Viano which come with a higher tint percantage of 70% along with : Ford Galaxy, E350 CDI ,Volvo, Bmw 5 & 7 series. I believe that we in the UK are well known for Democracy however this Council is trying dictate to us. End of Democracy. All nearby council's except WDC dont have any rules against rear tint windows. We were told Chiltern's has 70% but a colleague of mine just changed his vehicle and the rear tints are above 85%. How is this possible? Not a single saftey issue has risen against any one in the District and yet this council wants to deprive us of the best cars available. I suggest All Manufactured Tints be allowed. The cost is just too much and some dont make less than 70% tint glass. Why fix something which is not broken?
- 4.5 Responses in favour of a more restrictive policy approach:

- 4.5.1 Ben Clarke, Licensing Co-ordinator, Thames Valley Police - The decision to switch to a 70% tint allowance surely undermines the purpose of having the restriction in the first place. The Councillors need to ask themselves why the law regarding the front windows is so much more restrictive. It is because anything heavier is deemed to dangerously restrict the driver's view of the road and other road users. I suspect that there are two reasons for wanting to ensure clarity of vision in the back. One is so that the passenger can more easily see out, thereby allowing them to tell whether they are taking the expected route to their destination. The other is so that others can see into the vehicle in the hopefully unlikely situation that the passenger is being subjected to criminality inside. I appreciate that these might be deemed very unlikely occurrences, but it does mean that it's a bit pointless having the policy if it doesn't achieve the aims. Clare's letter is a little ambiguous insofar as it's not clear when the policy would apply... I get that not applying the policy to existing vehicles is fair, but what's not clear is whether once licensed for the first time, a vehicle is ever tested/checked again. It would again seem pointless having the policy if, the day after the vehicle is licensed, the owner could have the vehicle modified.
- 4.5.2 Margaret Mathie, Town Clerk, Beaconsfield Town Council - The view of Beaconsfield Town Council is that there is no need for licensed vehicles to have tinted windows. Although the Town Council says there should be no tinted windows, they would be happy to accept 30% tint, ie 70% light coming through, as a compromise.
- 4.6 Officers make the following general comments in connection with the proposed new policy and specific comments in relation to the consultation responses that have been received:
- 4.6.1 The first and most important point to make is that the proposed new policy wording is not a significant departure from South Bucks District Council's current policy approach. The 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. For a considerable period of time licensing officers inspecting vehicles have adopted an approach of allowing reasonably heavily tinted windows provided it is possible to see in to the vehicle and observe passengers within. In practical terms the level of tint permitted has been similar to what is now proposed. If the proposed new policy wording is adopted it will have the added benefit of a specific level of tint being specified, rather than it being left to different licensing officers discretion whether to approve the level of tint or refer to the Licensing Sub Committee for determination, thereby creating improved consistency and certainty for applicants.
- 4.6.2 Mr Mahmood makes the point that the Council is dictating to drivers which vehicles can be licensed. This is no different to the current status quo in the district and the status quo in the vast majority of other local authority areas. There are numerous vehicles which are not suitable for use as hackney carriages or private hire vehicles due to various design factors and local authorities generally set standards that must be achieved in order for vehicles to be eligible for licensing. The Council has a legal duty not to grant a private hire vehicle licence unless satisfied that the vehicle is safe and suitable to be used as a hackney carriage or private hire vehicle. Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 states that an application for a

private hire vehicle licence must 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. 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.

- 4.6.3 The standard proposed allows a large number of vehicles regularly used as hackney carriages and private hire vehicles to be licensed as manufactured, for example Mercedes E Class, Seat Alhambra (unless fitted with Sunset windows), VW Sharan, Passat and Touran (even where fitted with privacy glass 35% of light through) and Toyota Avensis and Prius (even where fitted with privacy glass 40% of light let through).
- 4.6.4 With regard to the suggestion that the standard proposed by South Bucks is more stringent than other local authorities in the area, this is not correct. The majority of local authorities in this area require 70% of light to pass through rear windows of licensed vehicles. Appendix 1 gives further details of the policy approach of a number of local authorities in this area.
- 4.6.5 Some respondents make the point that vehicles with any factory fitted tints should be permitted to be licensed. Officers are of the view that this is not an appropriate policy approach. There would appear to be no justification for permitting vehicles with factory fitted tinted windows to be licensed whilst not licensing vehicles with the same level of tint that has been applied post manufacture.
- 4.6.6 One respondent asks whether drivers will have to buy light meters when purchasing vehicles in order to ascertain the level of tint on vehicle windows. In some cases it's possible to find out from vehicle manufacturers what level of tint has been applied to the vehicle windows at the time of manufacture, but in other cases drivers will be able to have the vehicles tested by Licensing Officers or by the Council's approved testing centres, all of whom have testing meters. Currently drivers who wish to licence vehicles that have tinted windows fitted can only determine whether the vehicle is suitable for licensing by presenting the vehicle for inspection by a licensing officer at the Council offices. Therefore, if the new policy standard is adopted it will be easier for drivers to ascertain whether or not a vehicle is able to be licensed prior to purchase.
- 4.6.7 In relation to the comments made by Thames Valley Police, even with very heavy levels of tint on windows, the view from the inside of the vehicle to outside is generally good and as a result officers don't believe that there's any risk of the passenger not being able to see the route where they are going. The Council's concern about tinted windows is largely relates to people outside the vehicle being able to see in. This may be licensing officers or police officers who may want to be able to see whether the vehicle is overcrowded, or whether occupants are wearing seat belts, or whether passengers are in difficulty at all and/or need assistance. Changes in levels of tints on windows would be picked up as vehicles are tested every year at testing stations approved by the Council, these garages will be expected to check window tints.
- 4.6.8 In response to Iver Parish Council's point regarding whether this matter should be legislated for at a national level, whilst this may be desirable, currently it is not the way the law works. There are no national standards in respect of tinted windows for hackney carriages and private hire vehicles, but local authorities are permitted to exercise some control in this area if they feel it appropriate to do so.

**5. Resource, Risk and other Implications****5.1 Resource:**

5.1 The cost of carrying out this review and undertaking the consultation exercise has involved staff time and resources, but these costs have been met from the existing budget.

5.2 If an applicant for a vehicle licence appeals against a decision of either officers or the Licensing Sub Committee to refuse to licence a vehicle due to the level on tint the vehicle windows 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.

**6.0 Recommendation.**

6.1 It is recommended that members consider whether to approve the revised policy wording stated in paragraph 3.2 above as agreed on 29 January 2014.

6.2 It is further recommend that if the Licensing Committee approves the revised policy wording, it recommends adoption of this revised policy wording to full Council for approval at the meeting of 29 July 2014.

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<b>Background Papers:</b>	<b><i>Hackney Carriage &amp; Private Hire Licensing Policy &amp; Associated Documentation Date of Adoption 11 December 2007, First Review 12 April 2011. Reports to Licensing Sub Committee 9 October 2013 and 29 January 2014 regarding Consideration of policy approach to tinted windows on hackney carriage and private hire vehicles.</i></b>