

**Report to:** Licensing Committee  
**Date of meeting:** 5 July 2010  
**Report of:** Head of Environmental Services  
**Title:** Proposal to change hackney carriage livery requirements

**1.0 SUMMARY**

- 1.1 The Council is the licensing authority for hackney carriages within the Borough, and is allowed to impose reasonable conditions relating to their use. For many years the Council has required hackney carriages to be painted in a distinctive black and white livery.
- 1.2 As different models of vehicles have been granted licences over the last few years since delimitation, concessions have been given to the timing of the requirement for all vehicles to acquire the livery. A three year lead-in period to 1 January 2011 has been agreed by the Licensing Committee.
- 1.3 Arguments have been made by trade representatives that, not only should the proposed requirements be curtailed but that the livery requirement for all vehicles should be abandoned, primarily on economic grounds.

**2.0 RECOMMENDATIONS**

- 2.1 That the Licensing Committee decides whether to delete all of the conditions requiring vehicles to be painted white with a black boot and black bonnet from the Council's standard conditions for hackney carriages with immediate effect, and no longer requires hackney carriages to have such a livery or
- 2.2 All vehicles licensed as hackney carriages, other than multi-purpose vehicles (as stated on the DVLA registration certificate) and purpose-built hackney carriages, shall be required to be painted white with a black boot and black bonnet.

**Contact Officer:**

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**Report approved by:** Alan Gough, Head of Environmental Services

**3.0 DETAILED PROPOSAL**

- 3.1 The Council is the licensing authority for hackney carriages within the Borough, and is allowed to impose reasonable conditions relating to their use. For many years the Council has required hackney carriages to be painted in a distinctive black and white livery.
- 3.2 In October 2005, the Licensing Committee resolved that no vehicle would be licensed as a hackney carriage unless it was either (a) painted white with a black boot and bonnet or (b) if a London-style hackney carriage, in the original colours in which it was supplied. On 18 February 2008 the Licensing Committee approved two resolutions:

- (1) other than purpose-built hackney carriages, existing hackney carriages (whose licences are renewed after 1 January 2011) be painted white with a black boot and bonnet; and
- (2) other than purpose-built hackney carriages, hackney carriages after 1 January 2009 not be renewed unless the vehicle displays door signs of a type and style approved by the Council's officers, such sign to contain the Watford Borough Council logo, and the words "Licensed Taxi" in black writing on a yellow background.

3.3 The second resolution was extended by the Licensing Committee in December 2008 to include all purpose-built hackney carriages. Justifications and reasons for these resolutions can be found in the reports of the Head of Environmental Services to the Licensing Committee on 18 February 2008, 7 July 2008 and 1 December 2008.

3.4 There are presently around 115 saloon models out of 230 hackney carriages painted in the Council livery. All vehicles have roof signs, door signs with the Council crest, and hackney carriage licence plates as identifying features. Many also have a windscreen sticker or door sign indicating for which firm they work.

3.5 Representations have been made (as identified in previous reports) by the Watford Hackney Carriage Drivers' Association on the practical and financial implications of painting a vehicle with the livery:

- (1) the cost can be as much as £2000, which is prohibitively expensive in the current economic climate, particularly when there are fewer passengers and increased competition in the trade because of a greater number of licensed vehicles over the last few years. Vehicles are already identifiable by the roof and door signs, and vehicle plates, which the owners purchase themselves
- (2) it is more difficult to paint those 75 vehicles in the fleet which are "multi-purpose vehicles" or "people carriers" such as Vauxhall Zafiras or Ford Galaxies
- (3) it is difficult to sell a vehicle on as an unlicensed vehicle if painted in the Council livery, and the cost of restoring it to a sellable condition outweighs any likely profit
- (4) there is a legal requirement to notify the Driver and Vehicle Licensing Agency (DVLA) of any change to the vehicle colour.

3.6 The logical conclusion to the trade's argument may be that rather than requiring MPV and people carriers to be painted from 1 January 2011 onwards, the long-standing policy is reversed and no hackney carriage carries a livery other than the door signs, roof signs and licence plates.

3.7 The counter-arguments to those above are:

- (1) the cost of repainting a vehicle is a legitimate business expenses, and is therefore tax deductible
- (2) it is no more difficult to licence MPV and people carriers than other types of vehicle. In Brighton, which has a similar livery scheme to Watford, all hackney carriages – including purpose-built and mini-bus vehicles – conform to the livery. Other councils also have livery requirements – eg Forest Heath, Portsmouth and St Albans to name but a few.
- (3) it would be possible to repaint the boot and bonnet white to match the rest of the vehicle when it comes to reselling a vehicle formerly used as a hackney carriage
- (4) the notification to DVLA requires returning the vehicle registration certificate free of

charge, simply writing in the relevant box the new vehicle colour.

- 3.8 The primary purpose of the Council as a licensing authority is to ensure the safety of the public when travelling in licensed vehicles, and economic considerations are in this context of secondary importance.
- 3.9 A clearly identifiable and highly visible livery scheme serves a number of purposes:
- (1) it makes enforcement on taxi ranks and at night (particularly in the town centre) easier
  - (2) it makes it less likely for someone to “dress” up a vehicle as a hackney carriage and impersonate a licensed driver, particularly at night
  - (3) there is less risk of confusion with private hire vehicles, particularly from surrounding districts such as Three Rivers who allow private hire vehicles to display door signs and roof signs
  - (4) it makes hackney carriages easier to see for passengers with disabilities
  - (5) it promotes a sense of corporate and civic identity for the town, particularly compared to surrounding districts;
  - (6) it prevents hackney carriages from plying for hire in outlying districts, which they are prohibited from doing.
- 3.10 Officers have conducted some limited consultation on this proposal, with a press release on the Watford Observer website published on 19 March 2010, and a shorter article in the printed edition the following week. Views were sought from all licensed drivers through a newsletter which was distributed at the end of May 2010.
- 3.11 A small number of responses have been received. Eight comments have been received from drivers on the following points:
- (1) it can cost £1200 to paint a car
  - (2) if the vehicle is damaged in an accident it takes a long time to get a courtesy car which has the livery
  - (3) drivers will sell their cars less frequently if they have to paint and repaint them first, meaning vehicles are used for longer than they would be otherwise
  - (4) it is more costly to maintain an older car than a newer one
  - (5) other councils allow normal saloons to be used
  - (6) there are already door signs and taxi plates to show for which Council the drivers work
  - (7) the existing livery is old and the trade needs a new look
  - (8) drivers already have many overheads and not enough work
  - (9) vehicles are also used by drivers for their own personal cars not just taxis.
- 3.12 The chair of the Watford Disability Forum also responded. He states that removing the livery requirement might be causing people with disabilities another problem for residents who are visually impaired, registered blind or whom have learning disabilities. He suggests it is difficult

enough to hail a vehicle without making them blend in with other vehicles and may make the problem of people posing as a taxi driver worse as well.

- 3.13 He also suggested that the vehicle plate number should be at least eight inches high on a rear panel or rear door post so they can easily be seen to report a driver for not stopping or pulling away from a disabled passenger.
- 3.14 Chief Inspector Dempsey-Brench of Hertfordshire Constabulary has commented that retaining the black-and-white livery is useful as part of the dispersal process for the night-time economy. Not having a separate livery makes it harder to distinguish between private hire vehicles and hackney carriages.
- 3.15 The Department for Transport Best Practise Guide, published in March 2010, does not make any reference to hackney carriage vehicle livery schemes but states more generally:

## **THE ROLE OF LICENSING: POLICY JUSTIFICATION**

8. The aim of local authority licensing of the taxi and PHV trades is to protect the public. Local licensing authorities will also be aware that the public should have reasonable access to taxi and PHV services, because of the part they play in local transport provision. Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade. Local licensing authorities should recognise that too restrictive an approach can work against the public interest – and can, indeed, have safety implications.

9. For example, it is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe. But on the other hand, if the supply of taxis or PHVs has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on late-night streets for a taxi or PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.

10. Local licensing authorities will, therefore, want to be sure that each of their various licensing requirements is in proportion to the risk it aims to address; or, to put it another way, whether the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety. This is not to propose that a detailed, quantitative, cost-benefit assessment should be made in each case; but it is to urge local licensing authorities to look carefully at the costs – financial or otherwise – imposed by each of their licensing policies. It is suggested they should ask themselves whether those costs are really commensurate with the benefits a policy is meant to achieve.

- 3.16 The statutory Regulators' Compliance Code under the Legislative and Regulatory Reform Act 2006 places a duty on the council in relation to encouraging economic progress when determining any general policy or principles as follows:

*“Good regulation and its enforcement act as an enabler to economic activity. However, regulation that imposes unnecessary burdens can stifle enterprise and undermine economic progress. To allow or encourage economic progress, regulators must have regard to the following provisions when determining general policies or principles or when setting standards or giving general guidance about the exercise of regulatory functions.*

*3.1 Regulators should consider the impact that their regulatory interventions may have on economic progress, including through consideration of the costs, effectiveness and*

*perceptions of fairness of regulation. They should only adopt a particular approach if the benefits justify the costs and it entails the minimum burden compatible with achieving their objectives.*

*3.2 Regulators should keep under review their regulatory activities and interventions with a view to considering the extent to which it would be appropriate to remove or reduce the regulatory burdens they impose.*

*3.3 Regulators should consider the impact that their regulatory interventions may have on small regulated entities, using reasonable endeavours to ensure that the burdens of their interventions fall fairly and proportionately on such entities, by giving consideration to the size of the regulated entities and the nature of their activities.*

*3.4 When regulators set standards or give guidance in relation to the exercise of their own or other regulatory functions (including the functions of local authorities), they should allow for reasonable variations to meet local government priorities, as well as those of the devolved administrations.”*

#### 4.0 **IMPLICATIONS**

##### 4.1 **Financial**

4.1.1 There are no financial implications to the Council arising from this report.

##### 4.2 **Legal Issues** (Monitoring Officer)

4.2.1 This report concerns a change in the licensing conditions for hackney carriage vehicles. A party aggrieved by a licence condition has the right to appeal against that condition to the magistrates' court within 21 days of the grant of that particular licence. The Council is entitled to adopt conditions that are clear, reasonable and proportionate.

##### 4.3 **Equalities**

4.3.1 Changing the standards for the livery may be to the detriment of some sections of the community such as the registered blind or visually impaired, as reported at paragraph 3.12.

##### 4.4 **Potential Risks**

4.4.1	<b>Potential Risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Overall score</b>
	Legal challenge	2	2	6
	Hackney carriages being confused with private hire vehicles/vehicles from other districts	3	2	6
	Unlicensed vehicles posing as licensed vehicles	2	4	8
	<i>Those risks scoring 9 or above are considered significant and will need specific attention in project management. They will also be added to the service's Risk Register.</i>			
	Risks are to be scored 1 - 4 for both Likelihood and Impact Likelihood 1=unlikely 2=possible 3= highly likely 4= virtually certain Impact 1= very little 2=not very serious 3= serious 4= catastrophic So overall maximum score is 16			

#### Appendices

None

#### Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report:

#### File Reference

None