

PART A

Report to: Licensing Committee
Date of meeting: 4 March 2015
Report of: Head of Community and Customer Services
Title: Review of Hackney Carriage and Private Hire Vehicle Conditions

1.0 SUMMARY

- 1.1 The Licensing Committee was advised at the meeting on 14 July 2014 of the work being undertaken by officers in relation to the Driver and Vehicle Implementation Plan, and as a result of the drivers' workshops which took place late in 2013 and early 2014. One of the areas which was to be reviewed were the vehicle licence conditions for both hackney carriage and private hire vehicles.
- 1.2 Officers have since completed a consultation exercise to look specifically at the vehicle licensing policy and licence conditions. The feedback from drivers and officers has been collated and a proposal of an amended policy and licence conditions has been prepared as a result for the Committee to consider.

2.0 RECOMMENDATIONS

- 2.1 That the Licensing Committee adopt the revised vehicle licensing policy and conditions which are attached to this report at appendix 2 (for hackney carriages) and appendix 5 (for private hire vehicles).
- 2.2 It is further recommended that the Committee approve that the new licence conditions and vehicle criteria come into force for new vehicle licences issued after 6 April 2015.

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Report approved by:

Alan Gough, Head of Community and Customer Services

3.0 DETAILED PROPOSAL

- 3.1 The Licensing Committee will be aware that officers held fourteen workshops with licensed drivers between 10 December 2013 and 23 January 2014. Approximately 80 drivers attended these workshops, in addition officers had one-to-one sessions with those drivers who were unable to attend workshops, and the licensing authority received a small amount of correspondence directly.
- 3.2 These workshops were designed to encourage debate and discussion, to increase understanding between the Council and the trade and to develop suggestions for improvements to the licensing regime that both support the vast majority of professional and compliant drivers, but also ensure suitable standards are maintained to ensure public safety and tackle any drivers that bring the reputation of the trade into disrepute.
- 3.3 Numerous issues were identified by the trade via these workshops. Issues were identified with the vehicle licensing policy, which sets the criteria that vehicles must satisfy before they can be licensed, and the vehicle licence conditions, which are attached to the licences of both hackney carriage and private hire vehicles. Licensees were asked if they agreed that the policy and these conditions should be reviewed by a small working group of volunteer drivers and officers.
- 3.4 Seventy-one drivers (consisting of 51 hackney carriage drivers, five private hire drivers, and fifteen drivers who did not state if they were hackney or private hire drivers) considered that a review of policy and vehicle licence conditions was needed, and fifty-three drivers (35 hackney drivers, six private hire drivers, and twelve drivers who did not specify) were not in support. Eighteen drivers (sixteen hackney drivers and two private hire drivers) who were in support of a review of both the policy and the vehicle conditions volunteered to form the working party.
- 3.5 The working party was arranged for 27 August 2014, between 1pm and 4pm, at the Town Hall. Those drivers who had volunteered to form the working party were invited to attend and to put their views across. The option was also given to submit their views in writing if they were not able to attend.
- 3.6 Two drivers attended the working party, two drivers submitted written submissions for consideration, and one volunteer was spoken to on a separate day as they were not able to attend the meeting.
- 3.7 The two main areas of concern with the vehicle licensing policy and vehicle licence conditions were as follows:
- vehicles being failed for what drivers considered to be 'minor' infringements – failing to provide correct First Aid kits and receipt books were specifically mentioned
 - number of seats, particularly within multi-purpose vehicles – opinion was

split, with two drivers saying that the current policy should be more strictly applied when deciding how many seats a vehicle should be licensed for, and three drivers saying that the existing policy should be relaxed.

- 3.8 The working party was not considering door signs, even though the use of door signs is included both within policy and the licence conditions. It was not felt that this was appropriate to discuss in further detail because the Committee had only recently agreed to the trial of magnetic door signs at the time of the working party, and had already agreed to review this policy by July 2015.
- 3.9 Officers have also used this opportunity of reviewing the licensing policy and licence conditions to update old and outdated areas of policy or conditions.
- 3.10 A summary of the proposals and changes to the licensing policy and licence conditions for hackney carriage vehicles is attached at appendix 1.
- 3.11 The proposed amended licensing policy and licence conditions to be applied to hackney carriage vehicles are attached at appendix 2. For reference, the existing hackney carriage vehicle licence conditions are attached at appendix 3.
- 3.12 A summary of the proposals and changes to the licensing policy and licence conditions for private hire vehicles is attached at appendix 4.
- 3.13 The proposed amended licensing policy and licence conditions to be applied to private hire vehicles are attached at appendix 5. For reference, the existing hackney carriage vehicle licence conditions are attached at appendix 6.
- 3.14 Officers recommend that any changes to the licensing policy and licence conditions do not come into force immediately, but instead come into force on Monday 6 April 2015. This is to allow the licensing authority time to communicate the changes, as well as to make the appropriate updates to licence templates and the Council's website. The changes will not apply retrospectively to existing licensed vehicles but will apply as they are renewed on an annual basis. Once the new conditions are approved officers will also draft some explanatory notes to help applicants and licensees understand the requirements more clearly.
- 3.15 Officers can also advise that the proposed policy amendments and licence conditions were made available to drivers who attended the 'drop-in' session on Monday 26 January 2015. No comments were submitted against the proposals as a result of this session.
- 3.16 **Issue of 'minor' infringements**
The working party felt that the following were minor infringements of the licensing policy and licence conditions and should not prevent the vehicle from being licensed
- failing to provide a First Aid kit, or failing to meet the specified contents

- failing to provide a facility for providing receipts
- dents and scratches up to a specified size
- failing to provide sufficient no-smoking stickers
- failing to display the fare tariff (in hackney carriages only)

3.17 The drivers did suggest a list of factors which they considered as being key criteria and which must be met before a vehicle can be licensed. They also suggested a list of secondary criteria, which a vehicle would not necessarily need to satisfy in order to be licensed, but would remain as conditions on the licence

Key criteria

- rooflight (for hackney carriages)
- taximeter correct (for hackney carriages)
- suitable and efficient fire extinguisher provided
- First Aid kit provided
- interior of vehicle is clean and tidy
- exterior of vehicle not showing substantial damage

Secondary criteria

- everything else (that is, vehicles can be licensed without receipt books, without no-smoking stickers, without tariff sheets) but drivers would need to prove compliance with these conditions at some point during the life of the licence

3.18 Officers did consider this approach, but the issue of secondary criteria does not sit well from the perspective of enforcement or administration. This could cause confusion by allowing a vehicle to be licensed even though it does not satisfy the policy of the licensing authority. This also has the potential to increase the level of enforcement relating to vehicles if officers are required to contact licensees to confirm that their vehicles are compliant. There would also be difficulty in enforcing these conditions during the life of the licence if these conditions did not need to be satisfied for the vehicle to be licensed in the first place.

3.19 First Aid kits

Officers have acknowledged the concerns over the prescribed list of contents

for the First Aid kit, and this is reflected in the proposal to remove this list of contents. A First Aid kit must still be provided within the vehicle for the driver's use, not for use on passengers, as required under Health and Safety at Work regulations¹. However, it will be up to drivers to assess the contents of the kit, in line with the current regulations. This reduces the burden on drivers.

3.20 Receipt pads

Officers are also investigating obtaining a supply of receipt pads to provide to drivers in order to further reduce the impact of failing on such an item. In order to maintain budgets, it may be necessary to sell such items at cost.

3.21 Bodywork

It should be noted that the licensing authority already prescribes criteria which should apply to the condition of the bodywork of a vehicle. The following items would constitute a failure and would need to be addressed before a vehicle could be licensed:

- the bodywork being insufficiently clean to allow a proper inspection of the vehicle
- visibly poor or unsatisfactory repairs to any part of the bodywork – for example, re-attaching bumpers or wing mirrors with duct tape
- dents over 40mm in diameter at their widest point and over 2mm deep
- a mismatch of paint – however, officers do have discretion to pass vehicles where the colour is similar and the overall standard is good
- dull paintwork
- a scratch over 300mm long
- a single rust scab or blemish larger than 10mm x 10mm

With the exception of clarifying the maximum size of rust scabs and blemishes, there is no proposal to vary these criteria. The previous limit of a single rust scab or blemish was only 10mm, and gave no indication of overall size. Only a small number of vehicles are failed for not meeting the standards required of the exterior of the vehicle, and so it is not felt that these standards are too restrictive or burdensome upon drivers. Requiring a high standard of the bodywork also helps in enhancing the trade's visual image and reputation.

3.22 Tariff

Byelaw 15(a) of the Council's hackney carriage byelaws states the following:

“The proprietor of a hackney carriage shall cause a statement of the fares fixed by the Council to be exhibited inside the carriage, in clearly distinguishable letters and figures.”

¹ Reg 5, Health and Safety (First-Aid) Regulations 1981 SI 1981 No 917

It is therefore not felt that it is appropriate to licence a vehicle without a tariff sheet on display. Replacement tariff sheets are available from the licensing authority and are provided at no charge.

3.23 “No Smoking” signage

Under the Health Act 2006 and accompanying regulations, it is illegal to smoke within hackney carriage and private hire vehicles at any time. It is a legal requirement that vehicles display at least one no-smoking sticker to communicate this. Again, it is not felt that it is appropriate to licence a vehicle without any no-smoking stickers because this would be a breach of legislation, which the Council has a duty to enforce. The existing test criteria require two no-smoking stickers to be displayed within the vehicle, one on the near-side and one on the off-side of the vehicle, so that all passengers are aware that no smoking is permitted within the vehicle regardless of how they approach the vehicle. This also helps to maintain standards across all vehicles by stipulating how many stickers should be on display and where they should be displayed.

3.24 Where vehicles have been identified during an inspection as failing on the grounds of not displaying any no-smoking stickers, officers have been providing stickers for no charge. Officers have been able to do this because Environmental Health had a surplus of no-smoking stickers in storage from the introduction of the Health Act 2006, and so the licensing authority have been taking advantage of this surplus. If this supply of no-smoking stickers should be exhausted, officers will review if it is appropriate to order in more stickers. Should extra stickers be purchased, it may be necessary to start selling such items at cost to balance the budget.

3.25 Number of passenger seats

Drivers were split on the issue of how many passengers a vehicle should be licensed to carry, especially when considering multi-purpose vehicles (MPVs) such as Vauxhall Zafiras and Volkswagen Sharans. There were arguments submitted both for and against a change in our policy, with drivers asking for the policy to either be relaxed or tightened. There was little support for the current policy to remain in force. Members will recall there have been previous debates over this policy issue.

3.26 The argument for tightening our existing policy, and restricting the number of seats which can be licensed in vehicles, concentrated upon the issue of luggage. Two drivers called for the existing policy to be tightened. In MPVs, the drivers stated that there is not enough room to carry luggage for six people if all of the seats are occupied. They called for all vehicles with seven seats (including the driver) to be licensed for four passengers only, and that the rear two seats are automatically discounted and folded away at all times that the vehicle is available for hire, in order to guarantee adequate luggage space. They also asked that vehicles with nine seats (including the driver) to be licensed for six passengers only, with the front two passenger seats automatically discounted, again to guarantee adequate luggage space.

3.27 It was also submitted that there are issues with the health and safety of

passengers in allowing passengers to use the rear seats or very front seats in these vehicles, and that the comfort of passengers was also compromised.

3.28 The drivers who argued for relaxing our existing policy, and not restricting the number of seats which can be licensed in vehicles, mentioned three specific points:

- *Transparency and understanding*
The drivers mentioned that the existing conditions regarding seating were difficult for drivers to comprehend, and did not assist drivers when purchasing vehicles. If the existing policy on restricting the number of passenger seats within certain vehicles was to remain, the drivers wanted a definitive list of vehicle make and models which would be licensed for four, six and eight passengers
- *Safety and comfort*
The drivers did not feel that there are any issues with the comfort or safety of passengers using the rear seats in MPVs, or the front seats of mini-buses or taxi conversions. One driver highlighted that these seats are purpose-built, upholstered, with headrests and seatbelt anchorages; the same as any other seat within the vehicle. The drivers also questioned the Council's ability to query the validity of seats within vehicles, when the vehicle manufacturers have to undergo stringent safety tests before they can be made available for purchase. Where a vehicle has been converted or adapted, the conversion and adaptations must be approved by the Vehicle Certification Agency.
- *Cost*
Finally, the drivers stated that the insurance and costs of running a seven- or nine-seat vehicle were more than for a hatchback or saloon vehicle, due to lower fuel efficiency, and because insurance companies automatically assume that the vehicle is being fully occupied with all seats in use. By not allowing drivers to take extra passengers, they were unable to offset the additional expenditure through extra fares. This was particularly relevant to MPVs, where a car licensed for six seats benefits from using tariffs three and four, which have a higher flag rate than tariffs one and two, which are for vehicles carrying up to five passengers.

3.29 Officers have considered the issue of seating very carefully. This has also included referring to other licensing authorities and their policies on seating arrangements, within Hertfordshire and beyond.

3.30 The concept of operating a list of vehicles and how many passengers they can carry is not very practical. Such a list would need to be constantly updated and reviewed due to the fact that vehicle manufacturers frequently revise their models and technical specifications, as well as releasing special editions, such as sports and exclusive editions. Without inspecting each and every type of vehicle available on the market currently and in the future, we would be required to set criteria which vehicles must satisfy to be licensed for four, six or

eight passengers. Having seen the criteria set by other licensing authorities, this would not address the issue that the drivers have raised regarding clarity, because these criteria can be complicated.

- 3.31 It has been felt that the issue of luggage is something which should be up to the customer. If the customer has shopping bags or other items which need carrying and they are happy with the vehicle which they are offered or pick up from a rank, then that is the customer's choice. Likewise, if the customer is not happy with the vehicle on offer, then they have the right to refuse to take that vehicle. It was also felt that the majority of groups who wanted to be transported with a large amount of luggage, for example a group of friends going on holiday and who needed transport to a train station or airport, would be more likely to pre-book a vehicle. This would be the appropriate time to negotiate how many vehicles were needed and how much luggage would be conveyed.
- 3.32 The issue of safety can not be considered. A vehicle should not be licensed unless it is 'suitable' for the carriage of passengers. The construction and arrangement of these vehicles has already been declared to be safe and there is no substance to an argument that they are anything but safe. Vehicles must have a type-approval certificate before they may be used on the road, even if they have been converted or modified since construction. The question of suitability is very subjective, which goes some way to explaining why there is no consensus among licensing authorities.
- 3.33 To attempt to clear up the confusion which has been reported, and to allow a more permissive approach, officers therefore suggest that the policy on seating is relaxed, and that vehicles will be licensed to carry the number of passengers as stated on the logbook for the vehicle. This approach increases choice for drivers, prevents misinterpretation of policy or differing opinions on the 'suitability' of seating arrangements, as well as satisfying the majority opinion of the working party.
- 3.34 It should be noted that, when considering the capacity of a vehicle, any child under the age of three does not count towards the overall occupancy of the vehicle and can sit on an adult's lap without restraints.
- 3.35 **Officer housekeeping**
Officers have used this opportunity of reviewing the licensing policy and vehicle licence conditions to suggest updates and amendments as part of general housekeeping. Some changes have also occurred as the council no longer issues Certificates of Compliance as to the mechanical safety of the vehicles but relies on the general scheme of MOT vehicle testing.
- 3.36 It is proposed to remove a number of irrelevant policy requirements and conditions, which are redundant either because of changes to legislation and policy, or due to advancements in technology. Some conditions which are also not actively enforced, and which have not resulted in any loss of standards, are also proposed to be removed. Finally, some changes are cosmetic and are proposed to simplify the appearance of our conditions. Changes include:

- removing a condition which prohibited the use of leaded petrol
- removing references to policies which are no longer actively enforced or applicable to new licensed vehicles
- removing a condition with regards to the types of wheels which can be used on vehicles
- updating a condition regarding spare wheels, due to changes in manufacturer's not supplying spare wheels with every make and model
- updating a condition with regards to two-way radio equipment, due to changes in how drivers accept bookings, to ensure that no equipment interferes with the driver's ability to operate the vehicle
- updating some conditions to make them clearer as to what is required
- re-formatting the conditions to include policy points as reference

3.37 Policy changes include removing the minimum engine size requirement. This is necessary to allow the licensing of electric and hybrid vehicles, because current specifications on such cars do not meet or equate to the engine size which was prescribed. This allows drivers a much greater choice of vehicle.

3.38 Officers do not believe that any of these changes are increasing the burden on drivers and licence holders. They are meant to tidy up and update policy, conditions and test criteria. This is consistent with the council's obligations under the statutory Regulators' Code² that regulators should:

- carry out their activities in a way that supports those they regulate to comply and grow
- provide simple and straightforward ways to engage with those they regulate and hear their views
- base their regulatory activities on risk
- share information about compliance and risk
- ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- ensure that their approach to their regulatory activities is transparent.

² <https://www.gov.uk/government/publications/regulators-code>

3.39 Officers also do not believe that these proposals are contrary to the Department for Transport's (DfT) best practice guidance³ for licensing hackney carriage and private hire vehicles. It should be noted that this is not statutory guidance.

4.0 IMPLICATIONS

4.1 Financial

4.1.1 The Director of Finance comments that there are no financial implications arising from this report.

4.2 Legal Issues (Monitoring Officer)

4.2.1 The Head of Democracy and Governance comments that any changes to policy cannot be applied retrospectively. Changes to policy and conditions will only apply to vehicles which are licensed as hackney carriages or private hire vehicles for the first time after any changes are approved and are in force.

4.2.2 Individual licence holders also have the right to appeal against the imposition of any conditions on a vehicle licence to the Magistrates Court within twenty-one days of the grant of the licence. However, it is felt that the risk of appeal is low and unlikely because the proposals are looking at reducing the burden on drivers, as opposed to introducing tougher standards.

4.3 Potential Risks

4.3.1

Potential Risk	Likelihood	Impact	Overall score
Appeal against conditions	1	1	2

Appendices

Appendix 1 – summary of proposals regarding hackney carriage vehicles

Appendix 2 – proposed hackney carriage policy and licence conditions

Appendix 3 – existing hackney carriage licence conditions

Appendix 4 – summary of proposals regarding private hire vehicles

Appendix 5 – proposed private hire vehicle policy and licence conditions

Appendix 6 – existing private hire vehicle licence conditions

Background Papers

None

File Reference

Vehicle conditions

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf