

**MEMBERS INTERESTS 2012**

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

	<b>General</b>		
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest <b>because</b> it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/>          <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>          <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 16/7/12) or a pecuniary interest but it relates to the functions of my Council in respect of:  (i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.  (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.  (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay.  (iv) An allowance, payment or indemnity given to Members  (v) Any ceremonial honour given to Members  (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>          <input type="checkbox"/>	<i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>          <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/2/13 – 19/2/17)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

**'disclosable pecuniary interest'** (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

**Interest**

Employment, office, trade, profession or vocation

Sponsorship

**Prescribed description**

Any employment, office, trade, profession or vocation carried on for profit or gain.

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;*

*"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;*

*"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;*

*"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;*

*"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;*

*"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

**'non pecuniary interest'** means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

**'a connected person'** means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

**'body exercising functions of a public nature'** means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

**NB** Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

**LICENSING AND APPEALS COMMITTEE**

**HELD: 22 JULY 2014**

Start: 7.30pm

Finish: 8.10pm

**PRESENT:** Councillor Kay (Chairman)

Councillors: Barron Ms Melling  
Delaney Oliver  
Devine Owen  
Mrs C Evans Wright  
Mee

Officers: Commercial, Safety and Licensing Manager (Mr P Charlson)  
Principal Solicitor (Mr L Gardner)  
Senior Licensing Officer (Mrs S Jordan)  
Member Services/Civic Support Officer (Mrs J Brown)

**11. APOLOGIES**

There were no apologies for absence received.

**12. MEMBERSHIP OF THE COMMITTEE**

In accordance with Council Procedure rule 4, the Committee noted the termination of membership of Councillor Griffiths and the appointment of Councillor Barron for this meeting only, thereby giving effect to the wishes of the political groups.

**13. URGENT BUSINESS**

There were no items of urgent business.

**14. DECLARATION OF PARTY WHIP**

There were no declarations of a Party Whip.

**15. DECLARATIONS OF INTEREST**

Councillor Devine declared a pecuniary interest relating to agenda item 13 as the person attending was known to him personally. He therefore left the Chamber during the consideration of this item.

**16. MINUTES OF SUB - COMMITTEES OR WORKING GROUPS**

There were no minutes to receive.

**17. MINUTES**

RESOLVED That the minutes of the meeting held on 24 June 2014 be received as a correct record and signed by the Chairman.

**18. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That under Section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 2 (Identity of an Individual) and Paragraph 7 (Criminal Matters) Part 1 of Schedule 12A of that Act and as in all circumstances of the case the public interest in maintaining exemption under Schedule 12A outweighs the public interest in disclosing the information.

**19. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000192048  
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARAGRAPHS 2 & 7)**

Members were asked to consider a Private Hire Driver Licence, having regard to the offences declared on the Statutory Declaration which accompanied the Application Form.

RESOLVED: That Application Number WK/000192048 be deferred for one cycle to allow receipt of DVLA report and Disclosure Barring Service (DBS) report.

**20. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK000190296  
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS)**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000190296 having regard to the offences declared on the Statutory Declaration which accompanied the Application Form.

RESOLVED: That Application Number WK/000190296 be deferred for one cycle to allow receipt of DVLA report.

**21. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000191416  
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARAGRAPHS 2 & 7)**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000191416 having regard to the offences declared on the Statutory Declaration which accompanied the Application Form.

RESOLVED: That Application Number WK/000191416 be deferred for one cycle to allow the Applicant a further opportunity to attend.

**22. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000190744  
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARAGRAPHS 2 & 7)**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000190744 having regard to the offences declared on the Statutory Declaration which accompanied the Application Form.

RESOLVED: That Application Number WK/000190744 be deferred for one cycle to allow receipt of DVLA report and Disclosure and Barring Service (DBS) report.

**23. PRIVATE HIRE DRIVER PROSECUTION  
(IDENTITY OF AN INDIVIDUAL / CRIMINAL MATTERS - PARAGRAPHS 2 & 7)**

Members were asked to consider a Private Hire Driver Licence having regard to an offence declared by the Private Hire Driver.

The Private Hire Driver attended the meeting with his wife and was interviewed by the Committee during which the Private Hire Driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: A. That under the provisions of Section 61(1)b of the Local Government (Miscellaneous Provisions) Act 1976, the Private Hire Driver Licence Number LN/000004295 be revoked on the grounds that the Private Hire Driver is not a fit and proper person to hold such a licence having regard to the nature of the convictions recorded against him.

B. That under the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, the revocation of Private Hire Driver Licence Number LN/000004295 shall have immediate effect upon Private Hire Driver receiving formal notification of the decision to revoke in the interest of public safety.

(Note 1: The Chairman varied the order of business so that this item was heard after Item 8 of the Agenda to allow for the Applicants time restraints)

(Note 2: Councillor Devine left the Chamber during the consideration of this item and therefore took no part in the decision making process)

(Note 3: The Officers from Community Services left the meeting as Members considered their decision in this case).

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- CHAIRMAN -





**AGENDA ITEM: 8**

**LICENSING & APPEALS  
COMMITTEE:**

**21 October 2014**

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**Report of: Assistant Director Community Services**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Michaela Murray (Extn. 5315)**  
**([michaela.murray@westlancs.gov.uk](mailto:michaela.murray@westlancs.gov.uk))**

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**SUBJECT: PUBLIC REQUEST FOR AMENDMENT TO HACKNEY CARRIAGE &  
PRIVATE HIRE VEHICLE STATEMENT OF LICENSING POLICY 2013**

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Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To consider a request received from a Private Hire Driver to change Appendix B, Section 8: Specification & Conditions of Licence, of the Hackney Carriage & Private Hire Statement of Licensing Policy 2013.

**2.0 RECOMMENDATION**

2.1 The Committee's decision is requested.

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**3.0 INFORMATION**

Request received from:

Mr Robert Braeger

Private Hire Driver Number: LN/000005110

**4.0 BACKGROUND**

4.1 On 20 June 2014 Mr Braeger requested approval to licence, to the manufacturer's type approval, a Volkswagen Transporter vehicle for 8 passengers. The seating configuration in the vehicle was 2 passengers in the front and 2 rows of front facing seats to the rear.

- 4.2 A Senior Licensing Officer advised Mr Braeger that the vehicle was not to the specification stipulated in the Council's Hackney Carriage & Private Hire Licence conditions due to the fact that the 3 seats to the rear of the vehicle had no access immediately adjacent or a permanent passageway to such a door.
- 4.3 The Senior Licensing Officer advised that if a seat was removed from the vehicle to give a permanent passageway and the seating mounts rendered unusable and the floor surface to be smooth and unencumbered, a licence could be granted.
- 4.4 Mr Braeger expressed his disappointment with this decision and was advised that if he sought to change the Licensing Policy, a full report clarifying the reasons and supporting evidence would be required so that this information could be provided to the Licensing & Appeals Committee.
- 4.5 On 24 June 2014 Mr Braeger submitted a report requesting the vehicle be licensed for 8 passengers in accordance with the manufacturer's forward facing seating layout. The Senior Licensing Officer advised that a report would be submitted to the Licensing & Appeals Committee accordingly. Mr Braeger's report is attached as Appendix 1 to this report.
- 4.6 On 8 July 2014 Mr Braeger licensed his vehicle for 7 passengers having complied with the instructions of the Senior Licensing Officer pending the outcome of the next Licensing & Appeals Committee hearing.

## **5.0 CURRENT POSITION**

- 5.1 The Council's Hackney Carriage and Private Hire Licensing Policy 2013 currently states:

### **8 Seats**

- 8.5 Each row of seats made available shall have door access immediately adjacent to it unless access to rows of seats is by way of permanent passageway from such a door.
- 8.6 If a seat is to be removed to comply with this requirement, it shall be ideally removed from the nearside of the vehicle, from the row of seats, which are situated behind the front passenger seat.
- 8.7 Removed seating mounts must be rendered unusable and the floor surface to be smooth and unencumbered during the period of licence.
- 5.2 The reason for these conditions was to ensure the safety of passengers at all times, ensuring they have adequate means of access from a vehicle in the event of an emergency.



## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

6.1 The licensing of Hackney Carriage and Private Hire drivers and vehicles impacts upon many areas within the Community. This report links to the Safer Communities Key Objective of the Sustainable Community Strategy.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

7.1 No additional financial or other resources are required.

## **8.0 RISK ASSESSMENT**

8.1 The Council has a legal duty to administer the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1976 and is under a legal duty to determine the matter contained in this report. A failure to determine this matter would result in potential legal challenge.

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Exempt Information**

In all circumstances of the case the public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

### **Appendices**

Appendix 1

Mr Braeger's Report



**WLBC Licensing Policy states : “All vehicles shall have an appropriate “Type Approval” which is either a European Whole Vehicle Type Approval (EWVTA) or UK Low Volume Type Approval (UKLVTA). Vehicles shall not have been altered since that approval was granted”.**

**I have purchased a Volkswagen Transporter 9 seat minibus that is manufactured and type approved by Volkswagen to carry 9 passengers safely. This type approval does not differentiate between the types of passengers carried in the vehicle (ie: paying or non paying). As such the vehicle meets very stringent safety checks and has a Euro NCAP rating of 4 stars. This type approval is granted for the vehicle in its factory manufactured state, namely with two rows of 3 seats in the rear which are securely floor mounted and all face forwards. To my knowledge, there is not currently a manufacturer who seeks type approval for minibuses with this capacity with any other form of seating layout.**

**WLBC currently advocates the turning of rear seats to form “conference style” seating, whereby the rear seats face each other. In the majority of cases, for currently licensed PHV’s (with the exception of the Mercedes Vito) this involves changing the vehicle and its manufactured state in a structural fashion, and as such may prove to be both illegal and unsafe.**

**On purchasing my vehicle, the history of the vehicle was that it had previously been licensed by Transport for London through the Public Carriage Office as a licensed PHV to carry 8 passengers with its existing seating configuration. The vehicle was successfully operated by the Company, Parker Car Service who operate a fleet in excess of 300 PHV’s. TfL currently license 49,854 Private Hire Vehicles with no issues relating to the configuration of rear passenger seating or restrictions imposed. This compares to WLBC who license 397 and have overly stringent criteria on rear seating configuration. (Figures taken from Department for Transport Statistics report titled “Taxis, Private Hire Vehicles (PHVs) and their drivers: England and Wales by licensing area, 31 March 2013”). I would therefore pose the question to the Council ; “On what technical grounds do you consider that the rear seating configuration of a Volkswagen Transporter is unsafe for rearmost passengers ? And what factual information was used in making the decision that the vehicle is unsafe in its current Type Approved format ?”**

**Since purchasing the vehicle, I have had the vehicle viewed by Mr Andrew Lees who is a vehicle examiner for the DVSA (formerly VOSA) and has held this position for circa 20 years. In Mr Lees’ professional opinion, the vehicle is deemed as safe in its current form due its Vehicle Type Approval status. As such, there would be no issue with licensing this vehicle to carry 8 passengers under a Public Service Vehicle Operator’ Licence. Again, in his opinion, to move the seats on this or any other vehicle would change the vehicle from its manufactured standards thus losing its Vehicle Type Approval and rendering the vehicle in a modified state to be potentially illegal.**

**I further pose the question to the Council ; “Have those vehicles that have had their seating configuration changed from its manufactured configuration, namely turned to face rearwards, been re-inspected by a DVSA (VOSA) approved Individual Vehicle Approval (IVA) test station following the works completed by the Council’s own approved taxi testing station?”. If the answer to this is “No”, which I believe it is, then these vehicles are potentially illegal or unsafe as they no longer conform to the Vehicle Type Approval that was granted at the time of manufacture. This also contradicts the Council’s own Licensing Policy which states “Vehicles shall not have been altered since that approval was granted”.**

**Furthermore, I believe that by imposing the conditions 8.5 to 8.7 in the Taxi Licensing Policy, namely :**

**8.5 Each row of seats made available shall have door access immediately adjacent to it unless access to rows of seats is by way of permanent passageway from such a door.**

**8.6 If a seat is to be removed to comply with this requirement, it shall be ideally removed from the nearside of the vehicle, from the row of seats, which are situated behind the front passenger seat.**

**8.7 Removed seating mounts must be rendered unusable and the floor surface to be smooth and unencumbered during the period of licence.....**

**WLBC are in fact placing me at a distinct commercial disadvantage to those drivers who have their vehicles licensed by neighbouring authorities or choose to operate under a PSV Operator's Licence. By way of explanation, please see the examples below for vehicles that are currently legally licensed to carry 8 passengers in a vehicle where all rear seats face forwards in the same configuration as my VW Transporter :-**

**Example 1 : Pontville School, Long Lane, Aughton.**

**This establishment provides education services for children with various special needs from the age of 5 to 19. The school has a fleet of its own vehicles used to transport its pupils between various locations / activities. This fleet is primarily made up of Ford Transit Tourneo 9 seat minibuses. These minibuses all have two bench rows of 3 passenger seats in the rear in the same configuration as my vehicle. The sole means of access / exit from the rear row of 3 seats is by folding the back of the near side single seat of the middle row. The base of the seat does not move. There is no additional means of escape in the event of an emergency.**

**Example 2 : Mr Gerard Garcia T/A PSV Linkline**

**Mr Garcia currently operates a Ford Transit Tourneo 9 seat minibus under a VOSA PSV Operators Licence registered at a Burscough residential address. The vehicle has all the seats in the standard configuration as per Example 1. In the strictest sense, this vehicle should be licensed as a Private Hire Vehicle.**

**Example 3 : Arden College, Southport (Priory Group)**

**I have recently had a contract to transport two adults with learning difficulties to this college on a daily basis and collect them each afternoon. The students are taken out on trips and activities most days using a fleet of Hyundai i800 8 seat minibuses owned by the college. These vehicles all have a forward facing seating configuration with no additional means of escape in the event of an emergency. I also park alongside a Renault Trafic 9 seat minibus licensed by South Ribble Council (Plate no. 268) which has 6 forward facing seats in the rear with no additional means of escape in the event of an emergency. Why is it deemed safe for these, and other service users at the college to travel in either of these two vehicles but deemed unsafe by WLBC for them to travel in my vehicle ?**

**Example 4 : Whilst at Manchester Airport recently, I witnessed a Ford Transit Tourneo 9 seater minibus licensed by Wirral Council (Plate No. 294) with a seating configuration as per Example 1 collecting passengers. I have also witnessed several other 9 seater minibuses of various makes and models licensed by this Council carrying passengers around the region.**

**Whilst I understand that all of these vehicles have a different design and Type Approval to my vehicle, I would also like to use the following examples of VW Transporters that are used for transporting passengers (fare paying or otherwise) around the borough or surrounding areas ;**

**Example 1 : Lancashire County Council - Travelcare**

**As part of their services to residents within the County area, LCC operate a fleet of vehicles that not only transport the elderly and vulnerable around the County but are also available for hire to the general public. This fleet includes the same VW Transporter nine seat minibus as my vehicle with the seats in the same configuration with no additional means of escape in the event of an emergency.**

**Example 2 : TNT Mail**

**TNT mail currently lease a fleet of Volkswagen Transporter 9 seat minibuses, identical to mine, to transport there staff around various locations within the Liverpool postcode area including parts of West Lancashire.**

**Example 3 : Shropshire licensed PHV, Plate No. P0263 and also Warrington licensed PHV, Plate No. 368 both completing airport transfers in a VW Transporter with all seats facing forwards and licensed to carry 8 passengers.**

**Example 4 : Hertz & Arnold Clark Car / Van Rental**

**Both of these companies offer the VW Transporter 9 seat Shuttle for hire to the general public to carry 9 passengers (incl. Driver) with all seats facing forwards.**

**I would, therefore, pose a further question to the Council ; “What information does the council have available that is not available to any of the above that has led to a decision to class the VW Transporter Shuttle as unsafe to carry 8 passengers in forward facing seats ?”**

**I would assume that all of the bodies above, including the neighbouring licensing authorities, take the safety of their passengers as seriously as WLBC, yet are still quite happy to allow the use of this type approved vehicle.**

**Whilst taking all of the above into account, I do understand the Council’s stance on passenger safety, which has clearly led to what I believe to be an overly restrictive condition(s) within the Licensing Policy. As a result, I am happy to point out the manufactured means of exit from the vehicle either in normal use or in the event of an emergency :**

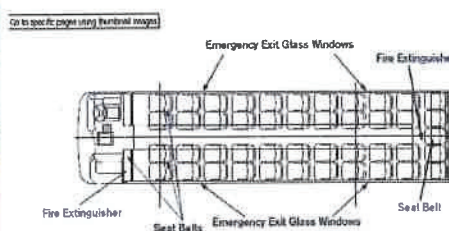
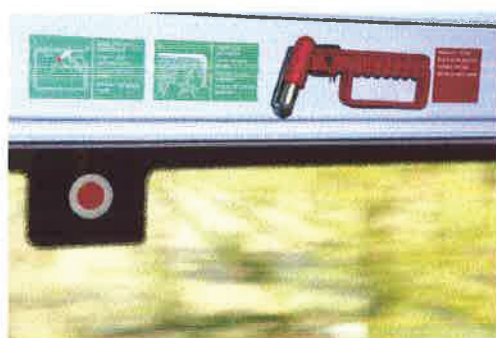
- Firstly, the nearside passenger seat in the middle row is designed to lift completely to allow easy access/egress in and out of the vehicle by operating a single lever on the side of the seat. This would be the method of entry/exit under normal conditions. Please see the image below :**



- Secondly, the twin passenger seat on the offside of the middle row, has a cord fixed to the rear base of the seat that, when pulled, will cause the backrest of the twin seat to fold flat. This would be an additional means of exit in the event of an emergency.



- Finally, in addition to these manufacturer installed measures, I have fitted my vehicle with a break glass hammer to the rearmost windows on both the nearside and offside of the vehicle. These windows are directly adjacent to the rearmost row of seats and are of such a size as to allow a person to easily exit the vehicle through the window aperture in the event of an emergency. I have also labelled both of these windows with signs stating “EMERGENCY EXIT – Break Glass With Hammer”. This measure is frequently used on larger PSV vehicles eg: trains, buses and coaches, where there may only be two exit doors and break glass windows are made available as additional means of escape in the event of an emergency. (See pictures below)



a. Typically all the window glasses can be used as an emergency exit except for the windows on either sides  
 b. Any hard objects like fire extinguishers, hammers can also be used to break the glasses

I will concur that whilst these last two measures may not be the easiest means of escape due to having to either climb over a seat base or out of a window aperture, they are only designed to be used in emergency situations and as such it is not unreasonable or impractical to expect a passenger to exit the vehicle in a manner in which they would not normally in the day to day use of the same vehicle. I also believe these methods of egress to be both ample and adequate for all 8 passengers to exit the vehicle if the need arose in an emergency situation.

In summary, and to finalise, I believe that the VW Transporter Shuttle has been manufactured by Volkswagen to be one of the safest vehicles in its class for carrying multiple passengers. This is substantiated by its widespread commercial use as shown in the examples above and also many others around the UK. I am also prepared to accept that WLBC may require additional safety measures to be implemented to ensure the safety of the travelling public within the

borough although I do not consider that the changing of the manufacturer's seating configuration is the best method to achieve this in light of the information I have supplied above. I believe, however, that the additional measures I have listed above enhance the vehicles ease of egress in the event of an emergency whilst maintaining the structural integrity of the vehicle in its manufactured state.

In considering my request to licence my VW Transporter Shuttle as a PHV to carry 8 passengers in its current form, I would like to direct the Council to the guidance issued by the Government in its publication titled "Taxi and Private Hire Vehicle Licensing : Best Practice Guidance" namely the following :

*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.*

*27. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.*

*28. ....Similarly, it may be too restrictive to automatically rule out considering Multi Purpose Vehicles, or to license them for fewer passengers than their seating capacity....*

*93. The Department encourages local licensing authorities, as a matter of best practice, to play their part in promoting flexible services, so as to increase the availability of transport to the travelling public. This can be done partly by drawing the possibilities to the attention of taxi and PHV trade. It also should be borne in mind that vehicles with a higher seating capacity than the vehicles typically licensed as taxis (for example those with 6, 7 or 8 passenger seats) may be used for flexible services and should be considered for licensing in this context.*

I trust that my request will be given fair consideration on its own merits and that any decision will be suitably substantiated by technical fact and expertise.







**AGENDA ITEM: 9**

**LICENSING & APPEALS  
COMMITTEE:**

21 October 2014

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**Report of: Assistant Director Community Services**

**Relevant Managing Director: Managing Director (People and Places)**

**Contact for further information: Michaela Murray (Extn 5326)**  
**([michaela.murray@westlancs.gov.uk](mailto:michaela.murray@westlancs.gov.uk))**

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**SUBJECT: REMOVAL OF HACKNEY CARRIAGE LICENCE CONDITION**

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Wards affected: Borough wide

**1.0 PURPOSE OF REPORT**

1.1 To determine the removal of a condition relating to vehicle replacement from relevant Hackney Carriage licences.

**2.0 RECOMMENDATIONS**

2.1 That the condition detailed in paragraph 3.2 in this report be removed from 9 relevant Hackney Carriage licences to ensure compliance with the Council's Hackney Carriage and Private Hire Policy Statement 2013.

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**3.0 BACKGROUND**

3.1 Prior to the Deregulation (Taxis & Private Hire Vehicles) Order 1998, local authorities were able to grant Hackney Carriage licences and also restrict the number of licences granted under Section 37 of the Town & Police Clauses Act 1847. At that time, the Council chose to restrict the number of Hackney Carriages in the Borough to a maximum of 48. These vehicles had no specific licence conditions save for a requirement that should the vehicle be replaced the date of manufacture of the replacement vehicle had to be earlier than the date of manufacture of the existing vehicle.

3.2 The Deregulation (Taxis & Private Hire Vehicles) Order 1998 reformed elements of the regulatory framework, including the removal of quantity restrictions on Hackney Carriage licences. At that time, the Licensing & Appeals Committee decided to end the restriction, but required that all new Hackney Carriage licences were subsequently granted with the following condition:

“It is a condition of this licence that should the vehicle be replaced, the replacement vehicle must be less than four years old at the date of replacement and designed for the safe carriage of disabled or wheelchair bound passengers.”

- 3.3 In April 2010, the Licensing & Appeals Committee approved a Hackney Carriage and Private Hire Statement of Licensing Policy (the Policy), which has been updated since that time. The Policy was approved after significant consultation with relevant parties including the Private Hire and Hackney Carriage trades. The Policy clarifies the age requirements for Hackney Carriages as follows:

“17.6 All Hackney Carriages shall be wheelchair accessible”.

“17.16 All vehicles licensed under a new application be a maximum of 4 years old and if compliant with the requirements for licence, shall be granted a vehicle licence until the age of 18 years, whereupon the vehicle must be replaced with one of a minimum of 3 years younger. If a vehicle is replaced at any time, this must be with one a minimum of 3 years younger. If a vehicle is replaced at any time, this must be with one a minimum of 3 years younger than the current licensed vehicle”.

- 3.4 The implementation of the relevant legislation to date means there is an inequality in the conditions stated on Hackney Carriages licences with regard to replacement of the vehicle. This effectively splits all existing Hackney Carriage licences into 3 groups:

Group 1:

- Those licences granted prior to the implementation of the Deregulation (Taxis and Private Hire Vehicles) Order 1998. There are currently 28 licences in this group and these do not have the condition stated in paragraph 3.2;

Group 2:

- Those licences granted between the implementation of the Deregulation (Taxis and Private Hire Vehicles) Order 1998 and the adoption of the Policy in April 2010. There were originally 14 such vehicles in this group, but there are currently only 9 vehicles, as 5 licences have expired. These licences do have the condition stated in paragraph 3.2;

Group 3:

- Those licences granted after the implementation of the Policy in April 2010. There are currently 4 licences in this group and these comply with the requirements stated in the Policy as detailed in paragraph 3.3.

#### **4.0 CURRENT POSITION**

- 4.1 The inequality in these conditions causes some concern for the Hackney Carriage trade, and views are divided. The matter was raised via the Council’s Hackney Carriage and Private Hire Trade Forum and the views of the trade can be summarised as follows:

- These drivers have stated that if the condition is removed from the licences in Group 2, the value of their own vehicles would decrease. They have also requested that the Policy be amended so that the condition stated at paragraph 3.2 is put on all new Hackney Carriage licences. They state that without this condition there is the potential for an influx of new vehicles which would impact on their livelihoods, particularly due to the current economic climate.
- These drivers have requested that the condition stated at paragraph 3.2 be removed from their licences as they feel their licence should to match the requirements of the Policy. They also state that given the current economic climate, it would difficult to purchase a replacement Hackney Carriage that is a maximum age of 4 years old. They are therefore forced to maintain older vehicles that could otherwise be replaced with a more modern vehicle.
- No other comments have been received from these drivers.

4.2 This matter was presented to the Committee on 24 June 2014. A number of Hackney Carriage drivers attended the meeting, all of which were in favour to retain the condition. No other Hackney Carriage drivers attended the meeting.

4.3 After the debate, the Committee decided that it was appropriate to ensure that the views of all Hackney Carriage drivers were taken into account – particularly those that were not present at the meeting. It was agreed that the matter would be deferred until all the trade had been consulted via a questionnaire to ascertain their views.

## **5.0 CONSULTATION RESPONSE**

5.1 11 questionnaires have been received and these are attached as Appendix 2 to this report. Members should note that there are currently 42 licensed Hackney Carriage drivers in the Borough and therefore the views received are not representative of the entire trade.

5.2 8 of the 11 questionnaires received indicated the wish to retain the condition on the existing 9 Hackney Carriages (Group 2 above) and further stated that this condition should be added to all new Hackney Carriage licences (Group 3 above). The general reasons provided for this view were:

When Hackney Carriages were restricted within the Borough, high premiums were paid for licensed vehicles because no additional vehicles could be licensed. After deregulation, new drivers would purchase existing licensed vehicles (again at a higher premium) rather than purchase a vehicle of 4 years or less, as these had what was believed to be a restrictive condition attached to the licence. These drivers therefore feel that, particularly in the economic climate, their investment would be undermined if the condition were to be removed from all licences.

- 5.3 3 of the 11 questionnaires received indicated that due to the economic climate the Authority should restrict the number of Hackney Carriages.
- 5.4 For Member's information, a number of the consultation responses refer to 'free issue plates'. This is the reference used for Hackney Carriages that were granted after the deregulation order and where the condition applies (i.e. Group 2 above).
- 5.5 All drivers who provided a response to the consultation have been invited to the meeting. As previously indicated, it is the view of Officers that the condition stated in paragraph 3.2 should be removed from all licences and the requirements of the Policy stated in paragraph 3.3 be applied equally to all Hackney Carriage licences.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 The Policy has the potential to impact upon many areas within the Community. Accordingly, there is some association with the Community Strategy. The proposal links to the Economy and Jobs, the Safer Communities and Better Environment Key Objectives of the Sustainable Community Strategy.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 No additional financial or other resources are required.

## **8.0 RISK ASSESSMENT**

- 8.1 The Council has a legal duty to administer the Hackney Carriage and Private Hire licensing regime, but not to prepare and operate a Policy document. However, given the complexity of the licensing regime, it is good practice for the Council to formulate and publish relevant policies and standards. Given that Members have already approved the existing Policy, a failure to improve and maintain the requirements of the Policy could result in criticism from the community including statutory bodies, the taxi trade, the travelling public and other interested parties.

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### **Background Documents**

There are no background documents (as defined in Section 100D (5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

## **Appendices**

1. Equality Impact Assessment.
2. Hackney Carriage Driver Questionnaires (To follow)



## Appendix 1

### Equality Impact Assessment - process for services, policies, projects and strategies

1.	<p>Using information that you have gathered from service monitoring, surveys, consultation, and other sources such as anecdotal information fed back by members of staff, in your opinion, could your service/policy/strategy/decision (including decisions to cut or change a service or policy) disadvantage, or have a potentially disproportionately negative effect on, any of the following groups of people:</p> <p><i>People of different ages – including young and older people</i>  <i>People with a disability;</i>  <i>People of different races/ethnicities/nationalities;</i>  <i>Men; Women;</i>  <i>People of different religions/beliefs;</i>  <i>People of different sexual orientations;</i>  <i>People who are or have identified as transgender;</i>  <i>People who are married or in a civil partnership;</i>  <i>Women who are pregnant or on maternity leave or men whose partners are pregnant or on maternity leave;</i>  <i>People living in areas of deprivation or who are financially disadvantaged.</i></p>	<p><i>No. The matters contained in this report are largely of a technical nature, but should apply equally to all licensed vehicles.</i></p>
2.	<p>What sources of information have you used to come to this decision?</p>	<p><i>Legislation requires that all licensed vehicles are subject to suitable checks to ensure their suitability and safety - without exception.</i></p>
3.	<p>How have you tried to involve people/groups in developing your service/policy/strategy or in making your decision (including decisions to cut or change a service or policy)?</p>	<p><i>Details of this report have been provided to those drivers affected by the content and have been invited to attend the Committee meeting.</i></p>
4.	<p>Could your service/policy/strategy or decision (including decisions to cut or change a service or policy) help or hamper our ability to meet our duties under the Equality Act 2010? Duties are to:-</p> <p><i>Eliminate discrimination, harassment and victimisation;</i></p> <p><i>Advance equality of opportunity (removing or minimising disadvantage, meeting the needs of</i></p>	<p><i>The recommendations contained in this report apply only to licensed vehicles. In this regard the Council has made provision for hackney carriages to be wheel chair accessible.</i></p>

<p><i>people);</i></p> <p><i>Foster good relations between people who share a protected characteristic and those who do not share it.</i></p>	
<p><b>5.</b> What actions will you take to address any issues raised in your answers above?</p>	<p><i>Details of this report have been provided to those drivers affected by the content and have been invited to attend the Committee meeting.</i></p>