



AGENDA ITEM: 9

**LICENSING & APPEALS
COMMITTEE:**

21 October 2014

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

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SUBJECT: REMOVAL OF HACKNEY CARRIAGE LICENCE CONDITION

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 match the requirements of the Policy. They also state that given the current economic climate, it would be 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.

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>5. 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>