



TAXI AND GENERAL COMMITTEE – 20TH APRIL 2018

SUBJECT: REVISION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE STANDARD / CONDITIONS OF LICENCE

REPORT BY: INTERIM CORPORATE DIRECTOR OF COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 To propose that the specification and conditions applicable to vehicle seating configuration, window tinting and the entry age for wheel chair accessible vehicles in relation to hackney carriages and private hire vehicles are reviewed following a stakeholder consultation exercise.

2. SUMMARY

- 2.1 In September 2017, a Vehicle Policy Consultation exercise was undertaken with the taxi trade in respect of a number of issues including Passenger Accessibility, Vehicle window tints, Wheelchair Accessible vehicles, Taxi meters, Vehicle Emissions and Vehicle Advertising.
- 2.2 This report recommends amendments to the Authority's position in respect of three of those issues; vehicle seating capacity, vehicle window tints and entry restrictions on age of wheel chair accessible vehicles. A further report will consider other amendments to the vehicle policy and conditions relevant to vehicle identification and vehicle advertising, taxi meters and vehicle emissions.

3. LINKS TO STRATEGY

- 3.1 The Hackney Carriage and Private Hire Vehicle Policy revision contributes to the Well-being Objectives contained within the Caerphilly Public Services Board's Well-being Plan, "The Caerphilly We Want".
- 3.2 The review of the arrangements and specification of hackney carriage and private hire vehicles licensed by this Council contributes to the following Well-being Goals within the Well-being of Future Generations (Wales) Act 2015:
- A prosperous Wales
 - A resilient Wales
 - A healthier Wales
 - A more equal Wales
 - A Wales of cohesive communities.

4. THE REPORT

- 4.1 The Authority has a statutory duty to administer certain licences, registrations and permits including the licensing of vehicles as hackney carriages and private hire vehicles.

- 4.2 The aim of hackney carriage and private hire licensing is to protect the public whilst ensuring that they have reasonable access to suitable hackney carriages and private hire vehicles because of the part they play in local transport provision.

The Licensing regime seeks -

- (i) To ensure the safety of the public affected by the operation of hackney carriage and private hire services.
- (ii) To ensure the safety and comfort of users of hackney carriages and private hire vehicles.
- (iii) To encourage the provision of a range of high quality and accessible hackney carriages and private hire vehicles.

- 4.3 The existing vehicle specification currently referred to as 'conditions of application', was developed several years ago and although subject to minor amendments has not been subjected to a full review to ensure that it is appropriate and up to date to reflect modern trends and local prevailing conditions. The Authority's current requirements in respect of seating capacity and vehicle window tints has resulted in large numbers of licence applications being rejected by officers as not complying with current requirements and subsequent appeals to the Taxi and General Sub Committee to determine the suitability of the vehicles .

Members will be aware that a number of vehicles are currently being referred to them in order determine the seating capacity, primarily whether vehicles should be licensed for 4 or 6 passengers and where rear window light transmission is less than 70% as required by existing conditions.

- 4.4 Members may recall a previous report before the Taxi and General Sub Committee in July 2017 appraising members of the consultation exercise to be undertaken with the taxi and private hire vehicle trade. Approximately 460 drivers, vehicle proprietors and operators were given the opportunity to respond to the consultation. The consultation exercise ran until the end of September 2017 covering Passenger Accessibility, Vehicle window tints, Wheelchair Accessible vehicles, Taxi meters, Vehicle Emissions and Vehicle Advertising. 70 responses were received following the consultation. The outcome of the consultation was reported to the trade in December in the Taxi & Private Hire Newsletter. A summary of the responses received in respect of each consideration relevant to this report is detailed below. All drivers, vehicle proprietors and operators were invited to attend a meeting on the 12th February 2018 in order to update them as to the results of the consultation and proposals for amendments to vehicle requirements. 41 licensees attended the meeting.

4.5 **Passenger Accessibility**

- 4.5.1 The current vehicle specification in respect of passenger accessibility requires that:

- (i) The vehicle must be constructed and the doors open sufficiently wide as to allow easy access to and egress from the vehicle and cause no inconvenience to passengers.
- (ii) Height (inside) from the top of the seat cushions to the roof at the lowest part must not be less than thirty-two inches to restrain the number of passengers permitted to be carried in the vehicle.
- (iii) Knee Space must be adequate between the rear of the front seat and the squab of the back seat.
- (iv) Seats (width), the width of the back seat from the squab to the front edge must not be less than eighteen inches.
- (v) Rear Seat (length), the length of the rear seat measured in a straight line lengthwise on the front of the seat must allow adequate sitting accommodation to the extent of at least sixteen inches.
- (vi) There is reasonable access to the seating area.

- 4.5.2 In recent years there has been a marked increase in the range of vehicles that can carry in excess of four passengers. In the main, these vehicles have two additional seats located in the rear of the vehicle which can only be accessed by way of moving or folding a seat or seats. Concerns have been expressed in the past that these vehicles are not suitable to carry more than 4 passengers because of the restricted accessibility, lack of unrestricted egress from vehicles in an emergency, loss of luggage space and impaired comfort for the passengers.
- 4.5.3 The current wording of vehicle specification only requires reasonable access which can be a subjective assessment which results in many vehicles of this type being referred to the relevant committee for determination. On first licensing, many proprietors will apply to carry four passengers in order that they can comply with any contractual arrangements they may have, but lodge an appeal to the sub-committee so as to increase the capacity to six or more.
- 4.5.4 During the period of October 2015 to the 23rd February 2018, 45 vehicles were presented to the committee for consideration of the accessibility and comfort of the additional seats in the very rear of vehicles. Following referral to Members all vehicles had their seating capacity increased. Clearly the safety and comfort of passengers are primary considerations. However sufficient local provision is also a relevant consideration especially in relation to School contract provision administered by the Integrated Transport Unit. It should also be noted that the authority has to date never received any complaints from fare paying passengers concerning access / egress from vehicles.

Indeed the most recent guidance on the matter is detailed within the 2010 Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guidance, which states *'it may be too restrictive to automatically rule out considering multi-purpose vehicles, or to licence them for fewer passengers than their seating capacity.'*

- 4.5.5 An alternative method for determining the seating capacity of a vehicle is to take account of the number of seats as set out on the DVSA V5C document (commonly referred to as the vehicle log book), this will provide the number of passengers allowed in addition to the driver, providing that each passenger seat has a dedicated seatbelt.

The benefits of moving to the seating capacity authorised by the DVSA would be as follows:

- Provide clarity for applicants and Members.
- Reduce time for vehicle assessments and time to licence a vehicle.
- Reduce the cost to the vehicle proprietor in respect of paying for replacement plates where the numbers are increased.
- Reduce the impact on licensing sub-committee in not having to inspect vehicles
- Reduce the impact on officers (licensing, committee clerks and legal) time in inspecting vehicles and preparing information and reports for the licensing sub-committee.

4.5.6 **Comparison with other Welsh Local Authorities**

The position in Authorities across Wales varies, however it is noted that Powys and Denbighshire have both recently removed requirements relevant to seating, moving to a either the number shown on the vehicle log book or must be 'type approved.'

4.5.7 **Consultation response summary**

Out of the 70 responses to the consultation 62% suggested that the seating capacity be determined by the DVSA log book as opposed to 37% who wanted to retain the current seat specification and ease of access requirements.

- 4.5.8 Members are requested to consider determining seating capacity by virtue of the information contained within the V5 log book.

4.6 Window Tints

- 4.6.1 A meeting of the Licensing Committee on the 24 September 2015 resolved that the transmission of light through all rear vehicle windows should comply with the Construction and Use Regulations as set for the front driver and passenger windows which set the limit at 70% of light transmission. The object of this requirement was the protection of the driver and passengers in that any activity in the vehicle could be viewed externally. The Council's Integrated Transport Unit view is that they would wish to be able to see into vehicles performing contracted work on behalf of the Authority. However since the 1st January 2016 vehicles have increasingly been brought before the Licensing Sub-Committee for assessment of the depth of window tinting in respect of visibility of the occupants of the vehicle. In 2017 alone, 16 vehicles were referred to Members for determination in respect of vehicle window light transmission levels. The Sub-Committee determined to grant licences to 13 out of 16 applications before them. The light recordings for these 13 vehicles ranged between 30% to 45% light transmission. Having conducted their own assessment of these vehicles, Members formed the view that they could view passengers sat in the vehicles. Two Operators were refused licences, it should be noted in these instances the light transmission levels were noted to be 8% and 10% respectively. One of these Operators took the matter before the Magistrates Court who overturned the decision of the Sub-Committee. The other Operator subsequently changed the vehicles windows so that they met the 70% level required
- 4.6.2 Having regard to the analysis of Sub-Committee decisions above it is proposed that Members consider reducing the minimum light transmission levels to 30% which is the level at which occupants are still visible. Vehicles where the light transmission is below 30% will be required to be assessed by the licensing sub-committee on their suitability to be licensed. In such instances, it will be for the applicant to satisfy the licensing sub-committee that there are 'exceptional circumstances' as to why they should depart from its vehicle policy. The grounds as to 'exceptional circumstances' are set out in 4.8 below.
- 4.6.3 By moving its position to 30% light transmission this will provide the trade with a greater access to vehicles and will also balance the requirements of wider public safety issues, by virtue of being able to see into the vehicles. It is believed that the approach proposed above is reasonable to permit increased number of vehicles but still having regard to safeguarding considerations.

4.6.4 Consultation response summary

Of the 70 responses received from the trade 74.6% favoured no restriction on the level of vehicle window tint, 12.6% favoured maintaining the current 70% requirements, whilst 12.6% favoured a move to not less than 35% light transmission.

4.6.5 Comparison with other Welsh Local Authorities

The position taken in respect of the level of window tint varies across Wales. Denbighshire have recently removed the 70% light transmission requirement specification requiring that all licensed vehicles must be 'type approved.' Cardiff is currently undertaking a consultation exercise with their licensed trade in respect of this issue. In Gwent the position is that both Monmouthshire and Torfaen require compliance with Construction and Use Regulations, Blaenau Gwent has no requirement specified, Newport requires that windows must not be tinted to the extent that passengers cannot be seen from outside the vehicle.

- 4.6.6 Members are therefore asked to consider moving to the position as set out in 10.1 where the required standard will be 30% light transmission.

4.7 Wheel Chair Access Vehicles

- 4.7.1 The Council does not specify the type of vehicle that can be licensed for carrying wheelchair bound passengers. However, the vehicles must be either purpose built or have the required safety certificates for any mechanical equipment or conversion, which includes a DVSA M1/M2 approval.

4.7.2 The recent consultation exercise undertaken with the trade has highlighted the cost of purchasing new or replacing wheel chair access vehicles. It is accepted that there is increasing demand for such vehicles within the borough. It is acknowledged that the licensed trade in the borough would be unable to support a requirement that all new vehicles must be wheel chair accessible or indeed to specify the number of such vehicles that operators should provide as part of their fleet. Following a suggestion from the trade, it is proposed that members increase the entry age for Wheel Chair Accessible vehicles only from 5 years up to 8 years of age. This would allow licensees greater flexibility and choice in sourcing wheelchair accessible vehicles and encourage an increase in the number of the wheel chair accessible vehicles in the borough. There are currently 27 wheel chair accessible vehicles in the fleet, of which 13 are hackney carriages and 14 are private hire vehicles.

4.7.3 **Consultation response summary**

71.6% of responses indicated that they were against a requirement that all new vehicles should be wheel chair accessible. 16% of responses were in favour of a specified percentage of the proprietors fleet be wheelchair accessible. 8.6% of drivers agreed that all new Hackney Carriage vehicles after a future date should be wheelchair accessible. At least one response advocated that the age limit for wheelchair accessible vehicles be increased from 5 to 8 years.

4.7.4 Members are requested to determine that the entry age for wheelchair accessible vehicles is increased from 5 to less than 8 years of age. A Wheelchair accessible vehicle will be defined as a vehicle which allows the wheelchair user to access and remain in their wheelchair when the vehicle is moving. In order to be licensed, such vehicles must be less than 8 years of age from the date of their first registration. Where the registration details of the vehicle are inconsistent with the date of first registration, applicants will be required to provide proof of the date of manufacture.

4.8 **Exceptional Circumstances**

Where requests are received for vehicles to be exempt from policy limitations, the Taxi & General Licensing Sub-Committee will consider the evidence and circumstances presented to them. Applicants must note that each application is considered on its merits, any decision in respect of a particular vehicle does not set any precedent in respect of any other vehicles. Exceptions to policy will not normally be granted where a vehicle is primarily used for routine work which is best described as available to any member of the public booking a journey. The onus remains on the applicant to make their case before the Taxi & General Licensing Sub-Committee.

A range of terms may be applied to vehicles used for 'non routine' work such as prestige, executive, limousine, exclusive, chauffeured, however none of these will confer an automatic right to exemption. There are a diverse range of situations that could be considered as exceptional, the following list is not exhaustive and simply indicates potential circumstances where members may consider to be 'exceptional circumstances'. It is proposed that the following situations / vehicles that may be considered as exceptional:

1. Vehicle solely used for specialist journeys such as transporting persons with special needs and requirements.
2. Vehicle solely pre-booked contract work for large companies, government agencies, TV studios, private schools, travel agencies, etc. Essentially bookings for the vehicle not accepted from or for the general public.
3. Vehicle retained and used solely for specific celebratory events travel such as birthdays, graduations, anniversaries or other one off celebratory occasions.
4. Vehicle is recognised as an exclusive brand, well maintained and in pristine condition such as Rolls Royce, Bentley, Daimler, Jaguar, Aston Martin etc.
5. Vehicle has a combination of facilities that would not normally be found in vehicles used for routine work, such as exceptional high quality upholstery, Wi-fi accessibility, conference seating, individualised media sources, refreshments, individual controlled ventilation, air conditioning, etc.

6. Where the vehicle is required for a combination of the 'exceptional' and the routine work and the Taxi & General Licensing Sub-Committee will consider how much weight they would give to each element of the use. For example, occasional use for carrying a person with special requirements may not be sufficient grounds to grant an exemption where simple adjustments can be made such as the provision of blinds on side windows when carrying that passenger. Infrequent exceptional use may not be sufficient to convince the committee that it would be possible to grant an exemption.

Applicants will be expected to provide evidence that would assist the committee in determining exceptional circumstances which could include:

1. Contract documentation.
2. Logs of the amount of "exceptional" work.
3. Websites and advertising material employed by the applicant.
4. References, statements from customers, medical certification or similar, if appropriate.
5. Appearance and condition of vehicles, uniformed drivers, service enhancements.

4.9 Amendments to Vehicle Inspection Standard and Conditions of Licence

- 4.9.1 Following final determination on the vehicle standard, the current vehicle inspection standard and conditions of licence will be amended to reflect decisions taken by this Committee. **Grandfather rights will apply to vehicles currently within the licensed fleet.** Licensees who wish to bring on new or replace their existing vehicles after the implementation date will be required to comply with the revised vehicle standard / conditions of licence on first plating.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 The Authority has a duty to improve the social, economic, environmental and cultural well-being of Wales. The proposals in this report contribute to the Well-being Goals as set out in Links to Strategy above. They are consistent with the five ways of working as defined within the sustainable development principle in the Act and support the objectives of other stakeholders.
- 5.2 The Council has a mandatory obligation to licence hackney carriages and private hire vehicles to those proprietors who seek to provide 'taxi services' and to ensure that they comply with all conditions and controls which may have an effect on them or the public. The prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service.

6. EQUALITIES IMPLICATIONS

- 6.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the category identified in Section 6 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report. The Council ensures that it treats all individuals who are renewing or making new applications for licenses, with equal respect in line with the Council's Strategic Equality Plan 2016 to 2020. Proposals to increase the number of wheelchair accessible vehicles available for hire would improve accessibility for residents and visitors to the county borough.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications of this report.

8. PERSONNEL IMPLICATIONS

- 8.1 There are no personnel implications.

9. CONSULTATIONS

- 9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.
- 9.2 Responses from the trade and stakeholder consultation exercise are reflected in paragraph 4.4 above and in the specific sections of the report.

10. RECOMMENDATIONS

- 10.1 That Members, consider and approve that for new vehicles first plating:
- a) the permitted seating capacity of licensed vehicles be determined by the number of seats shown on the V5 logbook (less the driver).
 - b) that the required level of light transmission through rear windows be amended from 70% light transmission to 30% light transmission.
 - c) that the entry age relating to Wheel Chair accessible vehicles be increased from less than 5 to less than 8 years.
 - d) That the conditions of Application, Vehicle Standard and Hackney Carriage/Private Hire Vehicle conditions be amended to reflect the decision in points a to c above.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To enhance public protection, provide greater clarity of requirements as to the suitability of vehicles and to facilitate and promote a safe and professional taxi service.

12. STATUTORY POWER

- 12.1 Local Government Act 1972; Local Government (Miscellaneous Provisions) 1976; Town Police Clauses Act 1847.

Author: Lee Morgan, Licensing Manager
Consultees: Cllr Denver Preece Chair, Licensing Committee
Cllr Julian Simmonds, Vice Chair, Licensing Committee
Cllr Eluned Stenner, Cabinet Member for Environment and Public Protection.
Mark S. Williams, Interim Corporate Director Communities
Robert Hartshorn, Head of Policy and Public Protection
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
Mike Eedy, Finance Manager
James Williams, Senior Solicitor, Legal Services
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)
Shaun Watkins, HR Manager
Mary E Powell, Fleet Manager
Huw Morgan, Team Leader Integrated Transport
Ruth Evans, Senior Transport Officer

Background Information

Department of Transport best practice guidance

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

Hackney carriage and private hire vehicle policy revision - Taxi and General Committee 13th July 2017