



## TAXI AND GENERAL COMMITTEE – 21ST SEPTEMBER 2020

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

**REPORT BY: INTERIM CORPORATE DIRECTOR, COMMUNITIES**

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### 1. PURPOSE OF REPORT

- 1.1 To propose that the specification and conditions applicable to window tinting / light transmission in the rear windows of Hackney Carriage (Taxi) and Private Hire Vehicles is reviewed following representation from the Caerphilly County Borough Taxi Drivers Association.

### 2. SUMMARY

- 2.1 In April 2018, the council amended its requirement in relation to vehicle rear window tint or light transmission from 70% to 30%. This was amended to allow the trade greater flexibility in relation to the number of vehicles that would meet the Council's vehicle specification given the more standardised use by vehicle manufacturers of tinted glass.
- 2.2 This report recommends a further amendment to the Authority's position in respect of rear window tint or light transmission which currently states '*Vehicles will not be accepted with heavily tinted or blacked out windows. All rear windows shall only be accepted where the tint permits at least 30% light transmission.*'

### 3. RECOMMENDATIONS

- 3.1 That the Committee amend the Council's specification and conditions applicable to window tinting / light transmission in the rear windows of Hackney Carriage (Taxi) and Private Hire Vehicles to '*Windscreen & Windows*' - '*To be in a good clean condition and free from damage. All windows must comply with relevant legislation in respect of light transmission. Only original vehicle manufactured tints are permitted on the rear windows.*'

### 4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To ensure that any conditions made in respect of vehicle licence conditions remain proportionate. It is accepted that an increasing number of vehicles are

manufactured with a greater level of window tint as standard. There would be a cost to the trade of replacing windows in order to meet the Council's existing policy. In replacing said windows there is a concern that any vehicle warranty would be invalidated by works to replace the windows. Scenarios may arise where a new vehicle which meets all other Council conditions faces being rejected purely down to rear window tints / light transmission. There will be a move towards the introduction of zero emission vehicles, such vehicles are likely to come with manufacturer's tint as standard. In addition, indications are that there will be a move towards national standards in relation to vehicles. One neighbouring Authority, Cardiff, has recently relaxed its policy in relation to rear window tint.

## **5. THE REPORT**

- 5.1 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.
- 5.2 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.
- 5.3 Sections 48(1)(a) (i) (iv) and (v) of the Local Government (Miscellaneous Provisions) Act 1976 stipulate that the Council shall not grant a private hire vehicle licence unless it is satisfied that the vehicle is suitable in type size and design for use as a private hire vehicle, safe and comfortable. Further, if a licence is granted the Council may attach such conditions to it as it considers to be reasonably necessary.
- 5.4 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 details that, the Council may attach to the grant of a Hackney Carriage licence such conditions as it may consider reasonably necessary. The range of conditions is wide and can therefore encompass safety, comfort and design.
- 5.5 Representation has been made by the Caerphilly County Borough Taxi Drivers Association for the licensing authority to reconsider its 30% light transmission policy to allow greater access to vehicles, given the more standardised nature of tinted glass used by manufacturers and the cost of replacing windows after purchasing a new vehicle.
- 5.6 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 Taxi and General Committee of the 20<sup>th</sup> April 2018 amended this requirement to permit the minimum light transmission levels to 30% a level at which occupants were still visible in order to cater for increased number of vehicles being presented that had a greater amount of vehicle tint.

The Authority's position in respect of rear window tint or light transmission which currently states *'Vehicles will not be accepted with heavily tinted or blacked out windows. All rear windows shall only be accepted where the tint permits at least 30% light transmission.'*

- 5.7 By moving its position to 30% light transmission it was hoped that this would 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. After moving to the current requirement, the Licensing Authority has received a number of applications for vehicle licences where the level of window tint / light transmission in rear windows falls below 30% and in such instances, Members have applied the council's policy, resulting in refusals. This has led to some disquiet amongst the trade as the vehicle they sought to licence is of superior quality in most other aspects i.e. age / condition to the vehicle they are looking to replace.

The prospective licensee has a choice to change the windows at an additional cost, which could invalidate any warranty claim made in relation to any future window related defects or source an alternative vehicle which meets the Council's criteria.

- 5.8 Officers have canvassed all other Welsh licensing authorities in relation to their conditions relating to rear window tinting but have had a limited response in view of coronavirus led issues. There is a varying position in respect of the level of rear window tint across Wales. However, it appears that Caerphilly is one of few authorities that enforces such a requirement.

Cardiff has recently amended its policy and has moved to the position where windows *'To be in a good clean condition and free from damage. All windows must comply with relevant legislation in respect of light transmission. Only original vehicle manufactured tints are permitted on the rear windows.'*

Swansea has a requirement that *'Tinted windows shall conform with the legal requirements of the current Road Vehicle constructions and use regulations'*

Denbighshire has removed the 70% light transmission requirement specification requiring that all licensed vehicles must be 'type approved.' 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.

- 5.9 The Licensing Authority should ensure that any conditions made in respect of vehicle licence conditions remain proportionate. It is accepted that an increasing number of vehicles are being manufactured with significant window tint as standard. Looking forward Caerphilly CBC like all other licensing authorities will commence a process of vehicle transitioning to the long-term target of achieving a 100% zero emission fleet of licensed vehicles. Many such vehicles are likely to be manufactured with tinted

glass. Some modern vehicles also use the fitted glass for the antenna for communication equipment such as the radio and satellite navigation.

There would be a cost to the trade of replacing windows in order to meet the councils existing policy. In replacing said windows, concern has been expressed by the trade that any vehicle warranty would be invalidated by works to replace the windows. Therefore, scenarios may arise where a new vehicle which meets all other council conditions is rejected purely down to the level of light transmission through rear windows.

The Licensing Authority is aware of work being undertaken to encourage voluntary adoption of standard conditions which ultimately could become 'national standards.' Neighbouring Authority Cardiff has relaxed its policy in relation to rear window tint.

- 5.10 The views of Social Services and Integrated Transport Unit were sought on the proposed changes to window tint requirements. Neither service areas had any objections as the majority of vehicles already meet the current 30% light transmission requirement and there is no evidence to support any increased risk from a move to manufacturers standard.

#### 5.11 **Conclusion**

Where there are concerns expressed about a Council policy that significantly impacts upon the licensed trade, then it is necessary to review the same to ensure that any conditions remain proportionate. By moving to the position as set out in Paragraph 3.1, then this will assist and provide confidence to the trade in bringing on new vehicles. The amended policy would also protect against "post" manufacture tints being applied to vehicles.

### 6. **ASSUMPTIONS**

- 6.1 No assumptions have been made in the preparation of this report.

### 7. **LINKS TO RELEVANT COUNCIL POLICIES**

- 7.1 There are a number of policies and conditions of licence relevant to the types of licences covered in this report.

#### 7.2 **Corporate Plan 2018-2023.**

The aim of licensing is generally public safety and protection and to ensure a fair and level market place for licensable activities.

The report impacts on the following Corporate Well-being Objectives, which are:

Objective 2 - Enabling employment

Objective 4 - Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment

## **8. WELL-BEING OF FUTURE GENERATIONS**

8.1 The Authority has a duty to improve the social, economic, environmental and cultural well-being of Wales. The areas covered in this report contribute to the following Well-being Goals

- A prosperous Wales
- A resilient Wales
- A more equal Wales
- A globally responsible Wales

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. There is an emphasis on prevention as the licensing process ensures that a number of checks and safeguards are in place before a licence is granted. There is also involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision-making process. The prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service.

## **9. EQUALITIES IMPLICATIONS**

9.1 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. An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential for unlawful discrimination and/or low level or minor negative impact has been identified; therefore a full EIA has not been carried out. 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.

## **10. FINANCIAL IMPLICATIONS**

10.1 There are no financial implications for the Authority arising directly from this report.

## **11. PERSONNEL IMPLICATIONS**

11.1 There are no personnel implications.

## **12. CONSULTATIONS**

12.1 The report has been circulated amongst the Consultees detailed below and all consultations responses have been incorporated in the report.

12.2 The "Taxi "trade were invited to comment on the proposal during a short two week consultation exercise, which ended on the 11<sup>th</sup> September 2020. The result of this

consultation saw responses from 96 drivers / operators that were in favour of the proposal as detailed in 3.1 of the report and 4 drivers/operators were in favour of retaining existing conditions.

### **13. STATUTORY POWER**

#### **13.1 Local Government (Miscellaneous Provisions) Act 1976.**

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**Consultees:** Cllr Denver Preece Chair, Taxi & General Licensing Committee  
Cllr Julian Simmonds, Vice Chair, Taxi & General Licensing Committee  
Cllr Nigel George, Cabinet Member for Environment and Neighbourhood Services.  
Mark S. Williams, Interim Corporate Director Communities  
Robert Hartshorn, Head of Public Protection, Community and Leisure Services  
Robert Tranter, Head of Legal Services and Monitoring Officer  
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager  
Mike Eedy, Finance Manager  
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)  
Shaun Watkins, HR Manager  
Geraint Roberts, Team Leader Integrated Transport Unit  
Nicola Barrett, Service Manager, Child Protection  
Lynne Price, Compliance & Health & Safety Contracts Officer, Fleet Services

**Background Papers:**

Revision Of Hackney Carriage And Private Hire Vehicle Standard / Conditions Of Licence - Taxi and General Committee Report 20<sup>th</sup> April 2018