

Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Licensing and Public Safety Committee	3 February 2016

REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to consider proposals to revise the existing Hackney Carriage and Private Hire Vehicles Conditions made following consultation with the trade on these conditions.

RECOMMENDATION(S)

That the Licensing and Public Safety Committee make a decision on the following:

- a) Approve the proposed layout of the vehicle conditions, including reasons for conditions.
- b) To note the comments made in the consultation in relation to conditions 5 (livery) and 8 (meters) and agree to retain the existing provisions.
- c) To note the comments in Paragraphs 18 to 27 and record that these matters have received due consideration by the trade and the Council and the current requirements remain relevant and should be kept unchanged.
- d) To consider the request to allowing an application to proceed before the Council's vehicle inspection, where the applicant wishes, but note the details in paragraph 28 to 35 and the risk to applicants that where the vehicle does not pass this inspection, as a full refund would not be made due to the costs incurred by the Council in administering the initial stages of the application. Also for members to consider the additional likelihood of conflict and stress to officers if this option is agreed and the potential legal implications of the decision where a refusal is challenged in the courts.
- e) Consider the comments made by the consultation in relation to conditions 2 (insurance), 3 (type approval), 16 (Doors), 17 (Seats) and 18 (Legroom) and agree whether each of the existing conditions should be altered or remain unchanged.
- f) Consider the inclusion of clarifying provisions within conditions 9 (Radios and Communication devices), 11 (Engine Compartment), 14 (Dashboard and Steering column) and 15 (Interior trim) and determine whether each of those inclusions should be agreed or dismissed.
- g) Consider new proposed conditions 21 (Emissions Standards) and 22 (Safety rating) and determine if these should be included in the vehicle conditions and if so, when these provisions should be implemented.
- h) Approve the removal of the engine capacity condition (Conditions 23).

EXECUTIVE SUMMARY OF REPORT

2. At the Licensing Liaison Panel (LLP) meeting on 15th June 2015 it was agreed to consult the trade on all the current Hackney Carriage and Private Hire Vehicle conditions in response to a number of comments and representations by the trade with regard to individual conditions.
3. A letter was sent to all drivers, vehicle proprietors and private hire operators requesting comments by the 31st July. 4 written responses were received and one further verbal

response was included following a request to chase up LLP members for comments after the close of the consultation.

4. The consolidated comments and the individual comments are attached in Appendix 1-5.
5. A further meeting of the Licensing Liaison Panel in September 2015 reviewed the comments and a further meeting in November 2015 considered the proposed wording of conditions.
6. An overarching comment related to the layout of the current conditions. Officers produced a revised layout, which includes reasons for the conditions, and it was agreed that the proposed format was clearer.
7. Attached (Appendix 6) is a copy of the revised conditions in the new layout and for the purposes of this report an additional column is included with information and discussion points for Members to assist in their decision making on the matters raised by the consultation. These items are identified as decision items for members.
8. After discussion it was agreed that some conditions should remain unchanged and these are identified as information items only.
9. Officers have also taken the opportunity to include additional conditions which assist in clarifying current requirements, where those requirements have previously been less explicit.
10. In addition, there are a number of additional conditions requiring consideration and a decision by the Committee which have been included to update the current conditions to reflect either current technology or appropriate standards.
11. A number of comments were received that do not relate specifically to the vehicle conditions and these are addressed in the body of this report.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

12. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

13. The current Hackney Carriage and Private Hire Vehicle Conditions have been added to and revised gradually over a number of years. The format of the existing conditions have been criticised as unclear and difficult for applicants to fully understand what the Council's requirements are.
14. At recent Licensing Liaison Panel (LLP) meetings, the trade has raised queries with regard to type approval and seating configuration conditions.
15. In June 2015, the Council launched a consultation on all vehicle conditions, contacted all drivers, vehicle proprietors and private hire operators asking for their views and comments on the current conditions.
16. A further meeting of the LLP in September was held to discuss the comments raised and agree actions by officers.
17. Draft conditions were produced and submitted to the LLP in November 2015.

COMMENTS MADE THAT DO NOT DIRECTLY RELATE TO VEHICLE CONDITIONS

The following issues were raised by the consultation and after discussion with the trade it was agreed that the existing conditions would not require any amendment:

18. **Insurance:** Vehicles must have specific hackney carriage or private hire insurance and evidence of continuous insurance for the term of the licence is required. The trade agreed that this was necessary. Officers can advise that on application of a new vehicle the applicant only needs to provide insurance information once all other application stages are completed to avoid unnecessary costs to the applicant. This means that the plates will not be handed over and the licence granted until this insurance information is provided to the Council.
19. **V5:** The applicant must provide a copy of the vehicle V5 (DVLA log book) in the applicant's name to the Council in order for the licence to be granted. Where this is not available because it has been sent to the DVLA for update, a copy of the V5 with the previous owner's details and the green slip is sufficient for licencing, the updated V5 must be presented to the Council within 6 weeks. The trade agreed that this condition does not require amendment.

The following matters were raised by the consultation and members are asked to consider those comments and retain the current provisions in relation to these items as they have been subject to a recent decision by the Committee:

20. **Refund of fees for change of vehicle:** This is not a vehicle type condition and a policy agreed by the Licensing and Public Safety Committee in March 2015 based on the fees review of 2014. The Committee resolved that the fee was representative of the cost of administrating the issue of the licence and did not reflect the length of time the licence was held. Therefore no refund was applicable once a licence was granted. Refunds are only applicable on withdrawal of an application or refusal of the licence. The Committee are asked to reiterate this policy decision.
21. **The Cost of the MOT and Taxi Test:** The Council's taxi test comprises an MOT and additional test, which must be done at the same time and by an approved garage, the law requires that the taxi test must be equivalent to or better than an MOT. The approved garages charge the full price of £54.85 and then they charge £10.25 for the additional checks that make up the Council's vehicle checks.
22. This same query about splitting the MOT and taxi test to allow proprietors to get a better price for the MOT element of the test is raised on a regular basis and was extensively consulted on in 2014. Splitting the test into parts for cost purposes would be unlawful because the Councils test must be equivalent to or better than a MOT, the councils vehicle inspection element of the test alone would not fulfil this requirement, if as proposed the proprietor were to provide an MOT certificate sourced at an alternative garage.
23. The current taxi test costs a total of £65.10. Part of our test is the MOT and the total charge reflects the cost to the garage of undertaking the test on our behalf. The garages have previously advised (during consultation in 2014) that in order to make it cost effective for the time the vehicle is occupying the ramp the overall cost of £65.10 is the minimum they can charge. If proprietors were to source the MOT separately then the approved taxi test garages would have to review the charge they make for the Council's taxi test element of the process, however, the test must be completed at the same time. Therefore the argument that applicants could obtain an MOT cheaper is irrelevant, because the test cannot be lawfully split.
24. Consultation with the Hackney Carriage Drivers Association in 2014 suggested that the overall cost of the test was comparable with that charged by other authorities.
25. **Group II medicals for drivers:** Drivers are required to undergo a DVLA Group 2 medical- the same as the requirements for HGV and bus drivers. In March 2015 the LPS Committee decided that these medicals are now required every 3 years at each driver licence renewal. The trade are opposed to this and think the Group II is too onerous, expensive and unnecessary and any medical should only be every 5 years.
26. The committee agreed in March 2015 that the group 2 medical was appropriate for drivers as they are carrying fee paying passengers. There were a number of cases where drivers had been found to have serious medical conditions which had not been picked up by normal doctor examinations. Members determined that regular group 2 medicals were appropriate to secure the health of drivers and protect the safety of the public. The use of Group 2 medicals for taxi drivers is the industry standard and recommended by the Department for

Transport as the appropriate level of testing. It is requested that the Committee reiterate the decision made earlier in the year as they have already given this thorough consideration.

27. **Reminder Letters:** The Council are phasing out sending reminder letters to drivers, proprietors and operators. The trade asked for reminders to continue. This is not directly related to vehicle conditions, but in March 2015 members agreed to phase out reminder letters because the expiry of the licence is clearly marked on the licences and the costs of sending out reminders for licence expiry, medical and DBS is an administrative cost which then has to be passed onto the trade. As with the proposals for medicals above, there was a consultation on these process changes in January 2015, the proposals were discussed at the Licensing Liaison Panel meeting in January and all comment made by those attending were incorporated into the committee report for members to consider. Members are asked to refer back to their policy decision in March 2015 and uphold the policy as agreed at that meeting.

PRE-INSPECTION

28. In 2014 a consultation was carried out with the trade on this issue and the results reported back to the Licensing Liaison Panel. It was agreed to retain the vehicle pre-inspection for the grant of a new vehicle licence, as many proprietors felt that this was a valuable free service, which allowed them to have the vehicle checked and assessed against all the Council's conditions before purchase and before paying for the application. The LPS Committee agreed that this process should remain in July 2014.
29. However, this current consultation has raised the concern that the need for the Council's inspection prior to beginning the application process can result in delays for applicants.
30. The proposal was to either extend the Taxi test to include all the elements of the inspection or to allow applicants to begin the application process before the inspection to reduce any potential delays.
31. If the existing taxi test were to be extended in relation to granting the vehicle licence, this would require consultation with the garages and a likely increase in fees for grants due to the additional time the test would take and the additional training requirements for the garage testers. This would likely lead to enforcement issues and would require significant procedural changes that may cause conflict in both the short and long term. The outcome of the previous consultation with garages in 2014 was clear that the garages were not willing to carry out the inspection in addition to the taxi test. However, once the proposed conditions in the new format are finalised and agreed by members then Officers commit to re-engaging with the garages on this point and reporting back to the LLP.
32. The proposal in the interim is to allow more flexibility in the current process, retaining the Council's inspection but allow new vehicle applications to proceed and the taxi test to be booked and carried out prior to the Council's inspection.
33. The vehicle proprietor would need to be advised of the risks that if the vehicle did not pass the inspection, even if the taxi test has been passed, then the vehicle could not be licenced and the proprietor would only be entitled to a refund of the application fee, minus an administration fee and also minus any fees paid for the taxi test, which under the current fee structure would effectively be a cost of £93.50. However, this would be the applicant's decision to make.
34. There is likely to be more involvement from officers, members and legal where there is conflict and protestations from applicants if a vehicle passes the taxi test but not the inspection and results in costs to the applicant. This will also increase conflict and stress to the Officers involved and members should be mindful of this in making their decision.
35. Any challenge of decisions made by officers in relation to the vehicle conditions following the vehicle passing the taxi test will be much more difficult to defend on appeal to the Courts and may leave the council open to criticism from the Courts.

IMPLICATIONS OF REPORT

36. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	X
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

37. Under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 the Council may not licence a private hire vehicle unless it is satisfied that the vehicle is safe, comfortable, and suitable for use as a private hire vehicle and in a suitable mechanical condition. The Council can attach conditions which are reasonably necessary to a private hire vehicle licence under Section 48. Conditions which are reasonably necessary can be attached to a hackney carriage vehicle licence under Section 47 of the 1976 Act. The Council has the power under Section 50(1) of the 1976 Act to require that the owner of a private hire vehicle or hackney carriage presents the vehicle for inspection and testing at a location specified by the Council within the Council's area. This is limited to three occasions per year. Failure to present vehicles without reasonable excuse is an offence.

COMMENTS OF THE FINANCE OFFICER

38. No Comments received.

JAMIE CARSON
DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Lesley Miller	5299		***