

Report of	Meeting	Date
Deputy Chief Executive/ Director (Early Intervention and Support)	Licensing & Public Safety Committee	14 February 2018

THE ALLOCATION OF A HACKNEY CARRIAGE VEHICLE LICENCE

PURPOSE OF REPORT

1. The report is a follow on report, from a report considered by the Committee on 19 July 2017.
2. The report informs the Committee of the expressions of interest received for a wheelchair accessible (WAV) motor hackney vehicle licence and invites the Committee to undertake a Tombola style selection to identify the preferential order in which the expressions of interest should be considered.

RECOMMENDATION(S)

3. Members are asked to note the information contained in the report and if satisfied that the correct process has been followed undertake a Tombola style selection.
4. That the tombola draw is undertaken in a way that all expressions of interests are drawn. This then provides an audit trail demonstrating that all valid expressions of interest have been entered into the tombola.
5. That the Committee agree that the assessment of compliance with the criteria in relation to pending convictions is considered at the time of an application. That the assessment of compliance will be by means of a basic disclosure, a DVLA licence check and a fully completed statutory declaration, all of which must be submitted as part of the application and dated within 2 months prior to the date of application.
6. That the Committee accept a change to the guidance and criteria in Appendix 1, as highlighted, where the WAV vehicle conditions in this guidance do not reflect the standard WAV conditions. In this case this relates to the criteria preventing the use of rear loading/access doors.

EXECUTIVE SUMMARY OF REPORT

7. Following on from the report considered by the Committee on 19 July 2017 the Regulatory Services Manager wrote to all eligible licence holders and provided a form for completion inviting persons to submit expressions of interest regarding the provision of a wheelchair accessible hackney carriage vehicle.
8. The returned expressions of interest forms have been considered against the Guidance and criteria provided at **Appendix 1**.
9. A total of 13 expressions of interest forms were returned. One of which was rejected as not meeting the criteria in that the person had not held a relevant licence for the required 3 year period.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

10. This report relates to the following Strategic Objectives:

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

BACKGROUND

11. The report of the 19 July 2017 provides the background to this report.
12. The Regulatory Services Manager wrote to 89 licence holders who may have met the criteria detailed in Appendix 1. The compliance with the criteria could not be fully assessed at this stage, for example officers could not have known, whether all licence holders had any pending convictions.
13. Deadline dates were provided in respect of the return of expressions of interest. All received expressions of interest were returned within the required timescales.
14. Persons named on the returned expressions of interest forms, have been checked on companies house records and the Insolvency Service Register for any evidence of bankruptcy or disqualification and have had their licence records checked on the current licensing software systems to ensure that they do not/ have not previously held a hackney carriage vehicle licence issued by Chorley Council.
15. The eligibility criteria require that persons do not have *any pending convictions or other relevant matters that have not previously been considered by the Council*. No assessment of compliance has been made in respect to this criteria. Compliance with this criteria will incur financial expense by persons who have submitted expressions of interest and therefore it is considered proportionate that these criteria are assessed as part of any application made following the tombola.
16. Persons who have submitted expressions of interest which comply with the assessed eligibility criteria have been notified in writing. A copy of the letter is attached at **Appendix 2**.
17. **Appendix 3** provides information compiled by officers in relation to expressions of interest which comply with the eligibility criteria assessed to date. The names have been listed in the document so that any party has the opportunity to provide the Council with information if they consider that the eligibility criteria have not been properly applied.
18. One expression of interest was received from a person who appeared not to have held a licence for the prerequisite time. The Regulatory Services Manager wrote to the person concerned explaining the reason for the exclusion and offering the person the opportunity to provide further information demonstrating that they did in fact meet the eligibility criteria. A verbal update will be available at the meeting.
19. The WAV vehicle conditions in the guidance (Appendix 1) do not reflect the standard WAV conditions. In this case, this relates to the criteria preventing the use of rear loading/access doors. This was an oversight when producing the criteria, as this restriction for WAV's was removed in the updated vehicle conditions in 2016. The change is highlighted in the Appended document.

ACTION FOLLOWING TOMBOLA

20. If the Committee approve the recommendations and undertake the Tombola, officers will note the order in which the expressions of interest are drawn. The first drawn will be invited to make an application for a hackney carriage vehicle licence, the application should be submitted in accordance with the criteria in Appendix 1. In the event of the first drawn expression of interest not meeting the criteria, the second drawn will then be invited to submit an application. The process will be repeated until one hackney carriage vehicle licence has been allocated.

IMPLICATIONS OF REPORT

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

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

COMMENTS OF THE STATUTORY FINANCE OFFICER

22. *No Comment

COMMENTS OF THE MONITORING OFFICER

23. Section 37 of the Town Police Clauses Act 1847 as amended by section 16 of the Transport Act 1985 provides that a Council may only limit the number of licensed hackney carriages if it is satisfied that there is no significant unmet demand for the services of hackney carriages.
24. Under Section 37 of the 1847 Act the Council may exercise its discretion when granting a hackney carriage vehicle licence. It follows that it may choose to assess the suitability of applicants as described at paragraph 5 above.
25. In the event of any challenge to the Council's policy of restricting the number of hackney carriages, reliance can be placed on the findings of the most recent survey in respect of unmet demand. DFT Guidance suggests a survey should be obtained every three years.
26. As hackney carriage vehicle licences are highly sought after and a limit on numbers confers a "licence premium" or "street value", there is always the possibility of a legal challenge to the allocation process, or an appeal by an unsuccessful applicant. In order to mitigate the risk, it is important that members should be seen to act fairly and openly. The Council's established tombola method would also assist in mitigating the risk.
27. Case law has held that the licence premium is unlikely to be property for the purposes of the Human Rights Act 1998.
28. Any person who is refused the grant of a hackney carriage vehicle licence would have the right of appeal to the Crown Court within 21 days of receiving notice of the decision.

CHRIS SINNOTT

DEPUTY CHIEF EXECUTIVE/DIRECTOR OF EARLY INTERVENTION AND SUPPORT

Background Papers			
Document	Date	File	Place of Inspection
Report to Licensing and Public Safety Committee Hackney Carriage vehicle	19 July 2017	***	Council website

Licence			
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Report Author	Ext	Date	Doc ID
Jenette Hicks	5628	18.1.18	***