

MEETING:	REGULATORY COMMITTEE
DATE:	6 OCTOBER 2009
TITLE OF REPORT:	PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847.
PORTFOLIO AREA:	HEAD OF ENVIRONMENTAL HEALTH & TRADING STANDARDS ENVIRONMENT & CULTURE

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To consider implementing revised licence conditions for private hire and hackney carriage vehicles.

Key Decision

This is not a key decision

Legal Implications

Licensing of Private Hire Vehicles

Licensing of private hire vehicles is covered under the Local Government (Miscellaneous Provisions) Act 1976, as follows:

Section 48

- (1) Subject to the provisions of this Part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence: Provided that a district council shall not grant such a licence unless they are satisfied –
- (a) that the vehicle is -
 - (i) suitable in type, size and design for use as a private hire vehicle;
 - (ii) not of such design and appearance as to lead any person to

- believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe; and
 - (v) comfortable;
 - (b) that there is in force in relation to the use of the vehicle, a policy of insurance or such security as complies with the requirements of (Part VI of the Road Traffic Act 1988), and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.
- (2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.
- (3) In every vehicle licence granted under this section there shall be specified -
- (a) the name and address of -
 - (i) the applicant; and
 - (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
 - (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
 - (c) the conditions attached to the grant of the licence; and
 - (d) such other particulars as the district council consider reasonably necessary.

Licensing of Hackney Carriages

Licensing of hackney carriage vehicles is covered under the Local Government (Miscellaneous Provisions) Act 1976, as follows:

Section 47

- (1) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary.
- (2) Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.
- (3) Any person aggrieved by any conditions attached to such a licence may appeal to a magistrates court.

Key Points Summary

- Last full review of conditions took place 5 years ago.
- Some alterations to the conditions have been made in the interim to accommodate the changes

required to take account of converted (N1) vans, as well as several other matters.

- At a meeting with the Licensing Team on 16th September 2008, the Taxi Association submitted to the Council several sheets of proposed changes and criticisms of the December 2007 version of the conditions. These papers are summarised in Appendix 1. The purpose of this meeting was to discuss the adequacy of the conditions so that their comments could be considered for a first re-draft. This was therefore a relevant pre consultation exercise with the foremost stakeholder group.
- On 9th April 2009 a further meeting was held between the Licensing Team and the Taxi Association regarding the Council's first draft of the conditions. Comments from the Association were received and can again be taken as a second pre consultation exercise. (summarised in Appendix 2).
- A letter sent out on 16th July 2009 with draft conditions for formal consultation with all licence holders. (See item 2 of letter presented in Appendix 3). This was also emailed to the Chairman of Herefordshire Taxi Association by the Acting Regulatory Services Manager of the Council on 16th July 2009. This included a personal request for a (third) consultation response on the final draft version.
- Proposed conditions descending from several draft versions are given at Appendix 4.
- Summary of trade comments following the formal consultation (Appendix 5).
- For cross reference purposes, the existing conditions (December 2007) are given at Appendix 6.

Introduction and Background

1. A full review of the licence conditions took place in December 2004. As part of a rolling programme for licence condition reviews and following a request by the taxi trade, the licensing section have carried out a further review of the conditions.
2. In early September 2008, the Taxi Association contacted the Acting Regulatory Services Manager and requested that the conditions be reviewed. Following this, the Association submitted their recommendations at a meeting on the 16th September 2008. A summary of these comments can be viewed at (Appendix 1). Of the 22 comments made, 15 were accepted and included in the Council's first draft.
3. The first draft was then compiled and internally consulted upon. A further meeting was then arranged for the 9th April 2009 by the Acting Regulatory Services Manager. The purpose of this was to discuss the first draft of the conditions with the Taxi Association and listen to their comments. Comments and criticisms arising from this second pre consultation exercise were submitted by the Association on the 9th April 2009 and were taken into account for the final version of the draft presented in Appendix 4 to the committee today. A summary of the comments arising from the 9th April 2009 can be viewed at Appendix 2. Of the 9 comments made, 4 were agreed and adopted in the final version.
4. Following these two pre consultation exercises, all persons or companies holding a licence issued by the Council in relation to Hackney Carriage and Private Hire Vehicles were formally consulted. A letter was sent to all the trade (see Appendix 3) and it was advertised on the Council's web site from 16th July to 11th September 2009. Advice was taken from the independent Herefordshire Partnership Support Team to ensure that consultation was fair and appropriate. The Team confirmed that consultation followed best practice and noted that there had already been two informal pre-consultation exercises with the Association to scope and

formulate a meaningful draft. They considered that this was better than normal practice. To ensure fair play, and as a precautionary measure, the proposed formal consultation period was even extended beyond that suggested by the Herefordshire Partnership Support Team. Some responses to the formal consultation were received and all comments were considered. A summary of these comments can be viewed at Appendix 5. Where appropriate, amendments were made. Of the 9 comments made, 4 were agreed and adopted.

5. Other consultees included the Council's Legal Team, the Diversity and Equality Team and the West Mercia Police.
6. The draft conditions with amendments made following consultation with the Taxi Association can be viewed in Appendix 4. The new draft licence conditions are a combination of the previous conditions which have:
 - (i). been benchmarked against other local authorities' conditions,
 - (ii). taken into account the "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance" document, and
 - (iii). taken into account the numerous comments from the Taxi Association.

The conditions are presented in Appendix 4.

7. The consultation comments received following the formal consultation period from members of the trade can be seen at Appendix 5 with the Licensing Team's responses.
8. The original conditions from December 2007 can be seen at Appendix 6.

Key Considerations

Whether or not to accept all or only some of the amendments to the draft standard private hire and hackney carriage licence conditions, or consider the inclusion of other conditions not currently within the draft.

Recommendation(s)

THAT Committee:

- (a) **Adopt the proposed conditions as they are presented in this report, in accordance with the Council's powers under the legislative provisions mentioned in this report.**

Reasons for Recommendations

The licensing authority believes it has considered amendments to the vehicle licence conditions carefully and in accordance with the relevant legislation and previous committee hearings and that this fulfils the Council's main aim of protecting public safety.

Alternative Options

- a) **The conditions not to be adopted by the Regulatory Committee as presented in this report.**
Advantages: It allows the views of the trade to be taken into a fuller account, if considered appropriate and legal.

Disadvantages: Not all the proposals put forward by the Association and some independent trade members can be legally accepted or are fair to all. The current draft follows a substantive consultation exercise.

b) To defer the decision in order to get more information

The Committee could make a decision to defer the decision. This will allow further information to be considered and enable additional advice to be received, whether legal or technical.

Advantages: Gives the opportunity for further information to be sought.

Disadvantages: This would delay the decision process and will incur further costs.

c) To reach some other decision

Advantages: This leaves other options open to the Committee to resolve the matter.

Disadvantages: There are no clear directions from the Head of Environmental Health & Trading Standards in respect to alternatives.

Community Impact

It is felt that any decision will have only a minor impact on the community as a whole, as it relates specifically to the taxi trade.

Financial Implications

Not applicable

Appendices

- 8 Appendix 1 – Taxi Association comments and request to review existing conditions - 16/9/08
- Appendix 2 – Summary of consultation meeting with Taxi Association regarding review of conditions – 9/4/09
- Appendix 3 – Letter to trade regarding consultation – 16/7/09
- Appendix 4 – Proposed conditions with amendments
- Appendix 5 - Summary of individual responses from members of the trade
- Appendix 6 - Existing conditions ratified Dec 2007.

Background Papers

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.