

<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>9TH FEBRUARY 2010</b>
<b>TITLE OF REPORT:</b>	<b>PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847.</b>
<b>PORTFOLIO AREA:</b>	<b>HEAD OF ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS ENVIRONMENT &amp; CULTURE</b>

**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

## **Recommendation**

**THAT Committee:**

**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.

## 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 place 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.

## 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 16<sup>th</sup> 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** version of the conditions.
3. The first draft was then compiled and internally consulted upon. A further meeting was then arranged for the 9<sup>th</sup> 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 9<sup>th</sup> April 2009 and were taken into account in this **second draft** version of the conditions. A summary of the comments arising from the 9<sup>th</sup> April 2009 can be viewed at Appendix 2. Of the 10 comments made, 4 were agreed and adopted in a **third draft**.
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 on this third draft. A letter was sent to all the trade (see Appendix 3) and it was advertised on the Council's web site from 16<sup>th</sup> July to 11<sup>th</sup> 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.
5. The consultation comments received following this formal consultation period from members of the trade can be seen at Appendix 5 together with the Licensing Team's responses. Where appropriate, amendments were made. Of the 15 comments made, 8 were agreed and adopted.

6. Other consultees included the Council's Legal Team, the Diversity and Equality Team and West Mercia Constabulary.
7. A report summarising the above together with now a **fourth draft** version of the conditions was originally taken to the Regulatory Committee on 6<sup>th</sup> October but was deferred, as members felt that even further consultation could be achieved with the Taxi Association, following complaint from the Chairman of the Association, to the effect that proper consultation had not taken place. Therefore, on 22<sup>nd</sup> October 2009, another meeting was held between the Taxi Association and Licensing Staff, which this time also included the Council's legal officer and two Councillors from the Regulatory Committee. This concluded the face-to face consultation process and allowed further comments to be passed on to the Licensing Team for consideration. Following the 22<sup>nd</sup> October meeting, several versions of the draft passed back and forth between the Chairman of the Association and the Licensing Team until it had reached a point whereby it was believed that all matters had either been agreed or there was an agreement to differ.
8. A **fifth draft** of the conditions was therefore sent to the Taxi Association on 15<sup>th</sup> December 2009. No response was received before the deadline for publishing the January 2010 Regulatory Committee report had passed, so this version was published. On the 4<sup>th</sup> January (the day before committee), as a precautionary measure, the Acting Regulatory Services Manager telephoned the Chairman of the Association to ensure that he was happy with this latest draft that had been put into the committee report, only to find out that he was very concerned with some of the cross referencing. It was left that these inaccuracies could be put to the Regulatory Committee and resolved at that time, to prevent further delay of their release.
9. As it happens, the January Regulatory Committee hearing was then cancelled due to heavy snowfall, which allowed this matter to be resolved before today's hearing.
10. On examination of the fifth draft it was found that the cross referencing issues had occurred due to the deletion of some conditions as well as the entire corruption of the file, which had possibly occurred when the file had been passed outside of the Council's network for comment by the trade. Since this last contact, the Chairman of the Association has made further comments and the cross references have now been put right. The corruption problems have also been resolved by our ICT department. A **sixth draft** and hopefully a final version is therefore presented to the committee today.
11. The proposed conditions with amendments made following consultation with the Taxi Association and the entire trade can therefore be viewed in Appendix 4. These proposed conditions are a combination of the previous conditions which have:
  - (i). been benchmarked against other local authorities' conditions,
  - (ii). taken into account the latest "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance" document,
  - (iii). taken into account the numerous comments from the Taxi Association from September 2008 to January 2010, and
  - (iv). taken into account the comments from the entire trade during the formal consultation period of July to September 2009.
12. Following the discussions and meeting with the Association from October 2009 to January 2010, it is acknowledged that further amendments have been made since the third draft which was formally consulted upon to the entire trade. However, the Council take the view that re-

consultation with the entire trade is not necessary, as the amendments are considered to be in the favour of the trade as a whole and in the main considered detail only.

13. The original conditions from December 2007 can be seen at Appendix 6, should members wish to compare.

## Key Considerations

14. 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 proposed new conditions.

## Key Points Summary

- Last full review of conditions took place 5 years ago.
- Some alterations to the conditions have been made in the interim.
- At a meeting with the Licensing Team in 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.
- In April 2009 a further meeting was held between the Licensing Team and the Taxi Association. Comments from the Association were received and can again be taken as a second pre-consultation exercise. (Summarised in Appendix 2).
- A letter was sent out in July 2009 with a draft of the 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 the Herefordshire Taxi Association. This included a personal request for a (third) consultation response on the then final draft version, although no formal response was ever received.
- At the Regulatory Committee Hearing on the 6<sup>th</sup> October 2009 a complaint was received from the Taxi Association about the consultation process and therefore the committee instructed the Council to facilitate an additional meeting to be held between the Taxi Association, the Licensing Team, the Council's legal officer and two Councillors. This was undertaken on the request of the Taxi Association in order to facilitate further consultation.
- The conditions were intended to be put before the Regulatory Committee on 5<sup>th</sup> January, but this was cancelled due to snow. The period of time between this date and the 9<sup>th</sup> February has allowed several cross-referencing issues and the corruption of the document file to be resolved.
- Proposed conditions descending from several draft versions are given at Appendix 4.
- Summary of trade comments following the formal consultation are presented in Appendix 5.
- For comparison, the existing conditions (December 2007) are given at Appendix 6.

## 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 an even fuller account, if considered appropriate and legal.

Further information on the subject of this report is available from  
Marc Willimont, Acting Regulatory Manager on (01432) 261986

**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. This alternative will delay the release of the new conditions even further.

**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. This alternative will also delay the conditions even further.

**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

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.