



## CITY OF GLOUCESTER

# LICENSING AND ENFORCEMENT COMMITTEE

**Meeting: Tuesday, 18th October 2011 at 18:30  
North Warehouse, The Docks, Gloucester**

**Membership:** Cllrs. Noakes (Chair), Porter (Vice-Chair), Tracey, Durrant, C. Witts, Ravenhill, Wilson, Field, Dallimore, Hansdot, Mozol, Patel and Toleman

## AGENDA

### **TRAINING SESSION FOR MEMBERS ON TAXI/PRIVATE HIRE DISCIPLINARY PROCEDURES**

*\*\*At the conclusion of the meeting there will be a private training session on taxi/private hire disciplinary procedures lasting no longer than 45 minutes. All Members are requested to stay for this important training\*\**

#### **1. VIEWING OF MERCEDES S320 CDI, REGISTRATION NUMBER M6 NCD IN NORTH WAREHOUSE CAR PARK AT 6.30 PM.**

All Licensing and Enforcement Committee Members are requested to gather in North Warehouse Car Park at 18.30 hours to inspect the vehicle which is the subject of agenda item 8.

The main meeting will then start promptly at 18.35 hours.

#### **2. APOLOGIES**

To receive any apologies for absence.

#### **3. DECLARATIONS OF INTEREST**

To receive from Members, declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any agenda item. Please see Notes 1 and 2 overleaf.

#### **4. MINUTES (Pages 1 - 8)**

To approve as a correct record the minutes of the two meetings held on 16<sup>th</sup> August 2011.

#### **5. MINUTES OF LICENSING SUB-COMMITTEES (Pages 9 - 16)**

To approve as a correct record the minutes of the meeting held on 30<sup>th</sup> August 2011.

**6. PUBLIC QUESTION TIME (15 MINUTES)**

To receive any questions from members of the public provided that a question does not relate to:

- Matters which are the subject of current or pending legal proceedings, or
- Matters relating to employees or former employees of the Council or comments in respect of individual Council Officers

**7. PETITIONS AND DEPUTATIONS (10 MINUTES, MAXIMUM 3 MINUTES PER PERSON)**

To receive any petitions and deputations provided that no such petition is in relation to:

- Matters relating to individual Council Officers, or
- Matters relating to current or pending legal proceedings

**8. APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MR SELWYN LLOYD-TAYLOR, UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 (Pages 17 - 36)**

Report of the Group Manager, Environmental Health and Regulatory Services.

**9. STREET TRADING APPEAL - HOT FOOD UNIT, CEMETERY ROAD, GLOUCESTER (Pages 37 - 48)**

Report of the Group Manager – Services, Facilities and Support

**10. TYPES OF HACKNEY VEHICLES (Pages 49 - 80)**

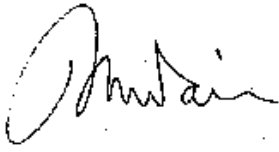
Report of the Group Manager for Environmental Health and Regulatory Services.

**11. MEMBERS UPDATE AND 3 YEAR WORK PLAN FOR LICENSING AND ENFORCEMENT COMMITTEE (Pages 81 - 86)**

Report of the Group Manager for Environmental Health and Regulatory Services.

**12. DATE OF NEXT MEETING**

Tuesday 13<sup>th</sup> December 2011, at 6.30 p.m.



**Julian Wain**  
**Chief Executive**

**Notes**

1. A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District:-
  - (a) the well being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;
  - (b) a body employing those persons, any firm in which they are a partner and any company of which they are directors;
  - (c) any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) the Councillor's registrable financial and other interests.
  
2. A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Please contact Democratic Services. No. 01452 396125/e-mail: [democratic.services@gloucester.gov.uk](mailto:democratic.services@gloucester.gov.uk) if you have a general query on any agenda item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Council.

Agenda and enclosures can be viewed on the District Council's Website - [www.gloucester.gov.uk](http://www.gloucester.gov.uk)

**If you would like a translation of agenda/minutes/reports or would like a large text version or an audio version please contact the Democratic and Electoral Services Manager and we will try to accommodate your needs.**

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**LICENSING AND ENFORCEMENT COMMITTEE**

**MEETING** : Tuesday, 16th August 2011

**PRESENT** : Cllrs. Noakes (Chair), Porter (Vice-Chair), Tracey, Durrant, C. Witts, Ravenhill, Field, Dallimore, Patel and Toleman

**Officers in Attendance**

Rebecca Tuck, Licensing Enforcement Officer

Carl Knights, Licensing and Enforcement Officer

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Steve Isaac, Solicitor

**APOLOGIES** : Cllrs. Wilson, Hansdot and Mozol

**19. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**20. MINUTES**

The minutes of the meeting held on 19<sup>th</sup> July 2011 were confirmed as a correct record and signed by the Chair.

**21. PUBLIC QUESTION TIME (15 MINUTES)**

There were no questions from the public.

**22. PETITIONS AND DEPUTATIONS (10 MINUTES, MAXIMUM 3 MINUTES PER PERSON)**

There were no petitions or deputations.

**23. SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MR LUKE BENNETT**

The Licensing and Enforcement Officer outlined the appeal by Mr Luke Bennett against an officer decision to refuse to issue a private hire vehicle licence to vehicle Vauxhall Vectra SRI Nav, registration number FP06 PPZ, on the grounds that it did not meet the age specification required by the Council's policy on the age of vehicles. The vehicle was first registered with the DVLA on 2<sup>nd</sup> June 2006. Mr Bennett's original application had been received on the 27<sup>th</sup> July 2011 and was followed up with some additional information requested by the Licensing and Enforcement Officer on the 28<sup>th</sup> July 2011. This meant that the vehicle had failed to meet, by a period of 8 weeks, the City Council's specific policy relating to age and a vehicle's acceptance for licensing on the first occasion.

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Mr Bennett was not currently a licensed private hire driver with Gloucester City Council. Due to financial constraints he was awaiting the outcome of the vehicle licence application before applying for a private hire driver licence.

The City Council was empowered under the Local Government (Miscellaneous Provisions) Act 1976 to licence private hire vehicles and to apply conditions to the issue of such licences.

Council policy for the first time of licensing a private hire vehicle which came into effect on 1<sup>st</sup> June 2010 stipulated *'vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration, regardless of whether it was previously licensed anywhere else in the UK, or re-licensed 10 years from the date of first registration'*.

The Licensing and Enforcement Officer reminded Members that in May 2003, the Council's General Conditions for Hackney Carriage and Private Hire Licensing contained the wording **'will not normally be accepted'** in place of the above, thus allowing Officer and Member discretion when deciding the merits of an individual case. It was noted that at present, the discretion rested only with Members to exempt vehicles from Council policy on an individual merits basis.

Members were advised that they had two options:-

- (a) To refuse the application on the grounds that the vehicle fell outside of Council policy on the age of vehicles that can be accepted for licensing on the first occasion.

Or

- (b) To accept the application on the grounds that the vehicle was of such a high standard for its age, that Council policy should be departed from in this particular case.

Members inspected the vehicle and noted that it was in excellent condition, of low mileage, and had passed the MOT and Council vehicle inspection check.

Mr Bennett addressed the Committee. He commented that he was unaware of Gloucester City Council's policy, having previously been a private hire driver with Cheltenham Borough Council. He asked the Members to reconsider the officer decision as he did not have the means to buy another vehicle.

The following points were discussed by the Committee:-

- The fact that the City Council's policy clearly stated 5 years and that this was, in fact, a relaxation from a previous policy which had stipulated 4 years.
- The vehicle was agreed to be in excellent condition for its age but it was not an executive class vehicle and was not an exceptional vehicle of its type.
- Members wished to act fairly and flexibly, but at the same time they needed to operate in accordance with the policy.
- The 'trade' was supportive of the 5 year policy.

**RESOLVED**

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**16.08.11**

That the application be refused on the grounds that it fell outside of the Council's policy on the age of vehicles that could be accepted for licensing on the first occasion.

**24. FEES FOR VEHICLES, OPERATORS AND DRIVERS LICENCES 2011/2012**

The Chair introduced the report which aimed to determine the level of Hackney Carriage and Private Hire Licence fees for 2011/12. The paper recommended an increase in existing taxi fees and charges of 2.5% from 17<sup>th</sup> August 2011.

However, following consultation with the 'trade', there had been a further evaluation of the figures and the Committee was now recommended to agree a zero increase in existing fees and charges.

The Food Safety and Licensing Services Manager confirmed that the "trade" had withdrawn their objection, based on the revised recommendation.

**RESOLVED**

That there would be no increase in existing taxi fees and charges for the year 2011/12.

**25. DATE OF NEXT MEETING**

Members were advised that following changes to the structure of the Licensing and Enforcement Committee that there would not be the necessity to have monthly meetings and that it was intended to hold quarterly meetings in 2012 with existing calendar dates being reserved in case they were needed for Licensing Sub-Committees.

**RESOLVED**

1. That the next full meeting of the Licensing and Enforcement Committee would be held on 18<sup>th</sup> October 2011 at 6.30 pm. .
2. That the Democratic Services Officer reissue a list of forward dates along with reserve dates for Sub-Committees.

**Time of commencement: 18:30 hours**  
**Time of conclusion: 18:55 hours**

**Chair**

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## LICENSING AND ENFORCEMENT SUB-COMMITTEE

**MEETING** : Tuesday, 16th August 2011

**PRESENT** : Cllrs. Noakes, Porter, C. Witts, Ravenhill, Field, Dallimore and Toleman

**Officers in Attendance**

Rebecca Tuck, Licensing Enforcement Officer

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Steve Isaac, Solicitor

Sonia Tucker (Secretary)

**APOLOGIES** : Cllrs.

**26. ELECTION OF CHAIR**

Councillor Noakes was elected as Chair.

**27. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**28. EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED -**

That the press and public be excluded during the following items of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during consideration of these items there would be disclosure to them of exempt information as defined in paragraph 1 of section 1001 of the Local Government Act, 1972 as amended

**29. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DISCIPLINARY MATTER - HACKNEY CARRIAGE DRIVER - LICENCE NO. HCD095 - MISS LR (REF ES21115)**

The Chair welcomed the licence holder and her representatives and outlined the procedure for the hearing.

The Licensing and Enforcement Officer presented the report to the Sub-Committee and advised of the circumstances of the offence. The Sub-Committee was advised that the purpose of the hearing was to determine whether, in view of the offence, the licence holder was a 'fit and proper person' to continue to hold a Hackney Carriage Drivers Licence. The Sub-Committee was referred to the paragraphs of the adopted guidelines relating to the relevance of convictions and outlined the courses of the action available to the Sub-Committee:

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- To take no action
- To issue a written warning
- To suspend the Hackney Carriage Licence for a period of time to be determined by the Committee but not for a period exceeding the expiry date of the current licence.
- To revoke the licence and if the committee so determine to consider whether to give an indication of a suitable time period to elapse before a fresh application would be considered.

The licence holder indicated that she had no questions to ask of the Officer and did not have anything further to say to the Sub-Committee.

One of the licence holder's representatives made supportive statements on her behalf and gave some background details on her personal circumstances. The representative also stated that she was looking into the possibility of challenging the Caution which had been given by the Police and accepted by the licence holder. It was also confirmed that the licence holder had not been advised by the Duty Solicitor at the time that she could challenge the Caution.

The Chair invited the Sub-Committee members to ask questions of the licence holder:-

- The licence holder was asked how long she had been a Hackney Carriage Driver and her age.
- What action she had taken to date to overturn the Caution

The Licensing and Enforcement Officer then summed up the case. All parties apart from the Solicitor and the Democratic Services Officer withdrew from the room whilst the Sub -Committee deliberated and made its decision.

The Sub-Committee considered the information contained within the report, including the Council's guidelines relating to the relevance of convictions and with regard to the driver's rights under the European Convention on Human Rights, evidence from the Driver, the Department for Transport Guidance, the Council's own Hackney Carriage and Private Hire licensing policy, and the legal implications as set out in the report.

On re-entering the room, all parties were advised of the decision.

**RESOLVED -**

That Miss LR, Hackney Carriage Drivers Licence (HCD 095) be issued with a final written warning. In making the decision, the licence holder was reminded that that whilst violence in any circumstances was unacceptable, the Committee did not believe there was evidence that Miss LR was not a fit and proper person.

**Time of commencement: 19:30 hours  
Time of conclusion: 20:10 hours**

**Chair**



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**LICENSING SUB-COMMITTEE**

**MEETING** : Tuesday, 30th August 2011

**PRESENT** : Cllrs. Noakes, Porter and Toleman

**Officers**

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Steve Isaac, Solicitor

Philippa Finnegan, Licensing Officer

**1. ELECTION OF CHAIR**

Councillor Jim Porter was elected as Chair.

**2. INTRODUCTIONS AND PROCEDURES**

The Chair introduced the Members of the Sub-Committee and Officers in attendance and asked the Applicant and Interested parties to introduce themselves at the appropriate time.

He then explained that following the presentation of the officer's report, the Applicant would have an opportunity to present their case followed by the interested parties. There would be an opportunity for questions following each of the above stages before each party had an opportunity to sum up with the Applicant being last to speak. Members of the Sub-Committee would then withdraw to consider their decision.

In addition to the Members of the Sub-Committee and Council officers in attendance the following were present:

**Applicant's Agent and Representative**

Mr Anil Bhawsar

**Interested Parties:-**

Councillor David Brown and Mrs Brown

Councillor Jim Beeley

Councillor Declan Wilson

County Councillor Bill Crowther

Mr Mark Carter

Mr Peter Quinnell

Ms Pat Bailey

Mr Stuart Bonser

Mr Thomas Llewellyn

Miss M Shute  
Mr and Mrs Bolton  
Ms Sharon Coldrick  
Ms Mel Wild  
Ms Sharon Roberts  
Ms Shirley Davies

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**4. APPLICATION FOR A NEW PREMISES LICENCE FOR 102 INSLEY GARDENS, HUCCLECOTE, GLOUCESTER**

The Licensing and Enforcement Officer presented the report on an application for a new premises licence made under section 17 of the Licensing Act 2003 for 102 Insley Gardens, Hucclecote, Gloucester GL4 4BS, received from Mrs Rajeenadevi Raventherakumar. The application was for the retail sale of alcohol from a new 'convenience' type store at the above address and was made in accordance with Section 17 of the Licensing Act 2003.

The convenience store was in a small parade of retail units comprising two salons and a gym. The premises were formerly a shop and later used as offices. Members were advised there are no planning issues with the site.

The Applicant requested the following licensable activity:

- The supply of alcohol (Section M of the Operating Schedule) for consumption **off** the premises from 06:00 to 22:00 hours seven days a week.

The Applicant had set out in Section P of the Operating Schedule the measures proposed to be taken to promote the four licensing objectives if the application was accepted.

It was noted that should the application be accepted, the measures in the Operating Schedule would become properly constructed conditions to be applied to the licence.

Members were advised that the Gloucestershire Constabulary Licensing Unit had, proposed that the following conditions should be added to the licence and this had been agreed by the Applicant.

1. All spirits to be kept behind the counter.
2. The CCTV system shall be maintained in good working order, shall record at all times the premises are open and recordings shall be kept for a minimum of 14 days and be provided on DVD to officers of the Council, Trading Standards and the police on request.

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3. The Challenge 21 (or equivalent scheme) shall be adopted so that any customer attempting to purchase alcoholic liquor who appears to be under the age of 21 shall be asked for an accredited photographic proof of their age (e.g. passport, photo driving licence or a PASS approved card) and that a sale shall not be made unless this evidence is produced. This will only be treated as a breach where the customer subsequently turns out to be under 18 years of age.

There were no representations from the other Responsible Authorities.

Objections had been received from residents in neighbouring streets to the convenience store and these were attached to the report. Some of those residents were present as Interested Parties with the intention of speaking at the appropriate time.

The Licensing and Enforcement Officer reminded the Sub-Committee that representations needed to be relevant and not vexatious or frivolous. In other words, they had to relate to the proposed licensable activity and its likely effect on at least one of the licensing objectives. They should not be borne out of malice or dispute and had to be serious.

It was noted that residents' concerns with regard to the licensing objectives related amongst other things, to a perceived propensity for anti social behaviour and under-age drinking, should the licence be issued.

Other issues raised involved parking and delivery times and it was noted that these matters would still be a concern whether or not the alcohol licence was granted.

The Licensing and Enforcement Officer then summarised the application:-

Having considered the application, any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy and the Home Secretary's Guidance, Members had the following options as considered necessary to promote the Licensing Objectives:

- (a) To accept the application and attach conditions as consistent with the operating schedule.
- (b) To accept the application and modify the conditions of the licence which includes altering, omitting or adding new conditions.
- (c) To reject the whole, or part of the application.

Members were reminded that the Licensing Objectives were:-

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance;
- (d) the protection of children from harm.

The Applicant's Agent indicated he had no questions to ask of the Licensing and Enforcement Officer.

### **APPLICANT'S AGENT'S ADDRESS**

Mr Anil Bhawsar, Agent for Mrs Ravertherakumar addressed the Committee.

The Agent explained that the Applicant was keen to be seen as a responsible retailer and that she was a responsible, community-minded retailer who wanted to create a livelihood which would benefit the local community. The objections from the Interested Parties were a concern to her. She was fully aware of the licensing objectives and that conditions might need to be attached to the licence, if granted. She already held a personal licence at another establishment and would be the Designated Person Supervisor (DPS) at these premises if the licence was granted.

### **QUESTIONS FROM INTERESTED PARTIES AND MEMBERS TO THE AGENT**

The following questions/comments were given by the Interested Parties. The Agent's response is shown underneath each question/comment with any further comments made by the Licensing and Enforcement Officer shown in brackets:-

*In view of the concerns of residents, would the Applicant be prepared to reduce the opening hours of the business?*

It was confirmed that after receiving the objections the Applicant had agreed to reduce the opening hours by one hour to 9 pm at night. The opening hours of the Store would be 6.00 am to 9 pm with licensing hours between 9.00 am and 9 pm, Monday to Sunday.

*How many deliveries and what type?*

As a small concern, most deliveries would be of groceries between 9 am and 5 pm, apart from newspapers which would need to be delivered early.

*Parking? How would deliveries happen, bearing in mind double yellow lines outside establishment?*

There was a nearby layby and parking behind the premises.

It was pointed out to the Agent by the enquirer that this layby was used by another business.

*Liaison with local police and Police Licensing Officer*

The Applicant had contacted Andy Cook the police Licensing Officer at Waterwells who had drawn up the conditions to be added to the licence, if granted. The Applicant had not contacted the local Police Station at Hucclecote, but intended to do so if the licence was granted.

During the discussion, the Agent asked one of the Councillors who was attending as an Interested Party whether he had contacted the local Police Station when the application was received. The Interested Party had not, although he did state that he was in regular contact with the local Police about anti-social behaviour in the area.

*Who would be on duty in the store?*



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There would be up to two people manning the store at any one time, depending on how busy it was.

(The Licensing and Enforcement Officer confirmed that the Applicant could empower another licence holder to sell alcohol in her absence).

*What was the Applicant's understanding of public nuisance and anti-social behaviour?*

Anyone who was abusive to staff or customers would not be tolerated. That would be considered as anti-social behaviour. The Applicant was an experienced retailer with knowledge and awareness and would be able to identify such behaviour.

*Litter*

The Agent confirmed that the Applicant would supply any extra bins considered necessary and that staff would litter-pick outside the store.

*Would the property be alarmed and would this link to the Police Station?*

It would be alarmed, but the exact type of alarm and its linkages was not known.

*Height of counters/displays in the store*

Displays would be kept to a low level so that staff had good visibility within the Store. CCTV would be used.

*Would contact details of Responsible Authorities be displayed?*

These would not be displayed directly, but near to the counter.

*Who would be responsible for public safety, health and safety checks, assessing fire risks?*

The Premises Supervisor.

*Awareness of responsible retailing. Log/register – could this be inspected by anyone?*

Log would be maintained as required by Police and Trading Standards.

(The Licensing and Enforcement Officer confirmed that for data protection reasons this log could not be viewed directly by members of the public, but could be shared with the Licensing Authority. It was further confirmed that the programme for licensing inspections was set following an overview of the premises when a 'score' was given. Should problems emerge following the granting of the licence this could lead to a subsequent hearing to decide whether the licence should be taken away).

*What measures would be taken to avoid anti-social behaviour?*

The Agent said this was difficult to predict because there had not been any instances of this so far. However, the Applicant was a mature person who would exercise due care and attention and assume responsibility for behaviour both within and outside the premises.

*Why had this particular property been chosen for this business?*

The Applicant had not looked into the history of the premises, but considered it to be an appropriate place for a business of this type.

*Would the Applicant be willing to reinstate the rear entrance to the premises to facilitate deliveries and use the side entrance?*

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The Applicant was not aware there had been a rear entrance previously but was willing to look in to the possibility of reinstating it. The Agent confirmed that the side entrance could be used for deliveries instead of the front.

*Residents had concerns about under-age drinking and there were fears that older people would buy alcohol to pass on to those who were under-age. What steps would the Applicant take to allay these fears?*

The Applicant was trained to observe such behaviour. Customers would be warned they would be fined and that Police would investigate and they would not be served in the Store again.

**RESIDENTS' STATEMENTS AND REASONS FOR OBJECTING TO THE LICENSING APPLICATION**

- Concerns that neighbouring streets would become a 'rat-run' with vehicles using them as short-cuts to access the store.
- Lessons should be learned from a similar premises at Dinglewell in Hucclecote where alcohol was sold and anti-social behaviour had resulted.
- Area was full of alleyways, green areas and car parks where individuals could hide, drink, and then potentially mis-behave. Resultant problems could be litter and vandalism.
- Gloucester already had a high incidence of alcohol related illnesses.
- Experience of problems caused by 'Bargain Booze' which had now ceased trading.
- Opening hours were a concern.
- Whilst residents were encouraged to ring '999', Police did not attend anti-social behaviour incidents promptly.
- Groups of drunken youths/children were intimidating.
- There appeared to be an emphasis on the sale of alcohol at the store rather than it being a convenience store.
- There were a lot of elderly and vulnerable residents in the neighbourhood.
- The neighbourhood was highly residential and the store would have a detrimental effect on the residents' enjoyment of the amenities.
- A female only business opposed the application. The owner of this business already experienced vandalism of her CCTV camera and lighting in the vicinity where her female clients parked.
- Reference was made to an academic commentary on the Daniel Thwaites v Wirral Borough Magistrates Court case and its relevance to this application.
- There was a strong feeling that there should be no licence granted, but that if one was issued it should be only up to 6 pm in the evenings and that there should be no sale of alcohol at all on Sundays.
- There had been two applications for a take-away at these premises which had both failed and this application was not dissimilar. The granting of the licence would disturb a quiet area.
- Local police, who could not be named or identified, had concerns which had not been addressed in the decision by Andy Cook, Police Licensing Officer.
- The Licensing Act was intended to give individuals control of what went on in their area.
- Concerns were expressed about parking and possible wearing of the road surface by lorries.

## **FINAL STATEMENTS**

- The Licensing and Enforcement Officer summed up the application and confirmed the recommendations before Members.
- One of the Interested Parties spoke on behalf of those present and handed a petition against the granting of the licence to the Chair. He said there was a lot of opposition from residents. Anti-social behaviour was the main concern. It was felt that the business was in the wrong place. The fact that the Applicant was willing to reduce the opening hours by one hour to 9 pm was of small comfort. Local businesses as well as residents objected to the proposal. It was not felt that the answers given by the Agent were authoritative. On behalf of the Interested Parties he asked the Committee to reject the application.
- The Agent concluded by saying that he knew residents felt strongly and that the Applicant sought to be a responsible trader. He reminded them that if they felt that the business was not being run properly that the licence was subject to review. The Applicant was seeking to run a convenience store and the sale of alcohol was part of this. He did not feel that the implications outlined by the residents could happen in that way, but if they did, he was confident that the Police, City Council, and Trading Standards would take steps to make sure the 'right thing was done'.

## **RESOLVED**

The Committee considered the application made under Section 17 of the Licensing Act 2003 for a premises licence by Insley Gardens Convenience Store (102 Insley Gardens, Gloucester) and having had regard to the representations made by the Interested Parties, evidence from the Applicant, the Home Secretary's Guidance, the Council's own Statement of Licensing Policy and the Legal Implications as set out in the report, have decided to grant the application.

## **REASONS AND CONDITIONS**

The licence was granted on condition that licensing hours were restricted to 9.00 in the morning to 7 pm in the evenings, Monday to Sunday. The reason for restricting the opening hours was that the Sub-Committee had heard sufficient concerns from the numerous interested local parties that longer hours would not uphold the licensing objectives in respect of:-

- The prevention of crime and disorder.
- Public Safety
- and the prevention of public nuisance

in the highly residential area that the facility would serve.

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The Applicant was also highly recommended to investigate the re-opening of a rear access from the store directly to the car park to facilitate deliveries to the premises.

The Applicant and residents were reminded that under Section 53 of the Licensing Act, that Interested Parties and Responsible Authorities could apply to the Council at any time for a review of the licence granted because of a matter arising at the premises in connection with any of the four licensing objectives listed in section 2.2 of the report.

**Time of commencement: 18:30 hours**

**Time of conclusion: 22:00 hours**

**Chair**

# Gloucester City Council

<b>Committee</b>	: LICENSING AND ENFORCEMENT COMMITTEE
<b>Date</b>	: 18 OCTOBER 2011
<b>Subject</b>	: APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MR SELWYN LLOYD TAYLOR UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
<b>Ward</b>	: ALL
<b>Report by</b>	: GROUP MANAGER, ENVIRONMENTAL HEALTH & REGULATORY SERVICES
<b>No. of Appendices</b>	: A: EXTRACT FROM PRIVATE HIRE RULE BOOK JUNE 2010 ENTITLED 'VEHICLE AGE AND TESTING' B: LIBRARY PHOTOGRAPH SHOWING MERCEDES S CLASS LONG WHEELBASE C: COPY OF APPLICATION PAPERWORK D: EMAIL FROM MR TAYLOR IN SUPPORT OF HIS APPLICATION
<b>Reference No.</b>	: ES21122

## 1.0 Purpose of Report

- 1.1 To outline to Members an application by Mr Selwyn Lloyd Taylor for a new private hire vehicle licence for a Mercedes S320 CDI long wheelbase registration number M6 NCD. The application is before the Committee on the grounds that it does not meet the age specification required by the Council's policy on the age of vehicles.

## 2.0 Recommendations

- 2.1 Having considered the application, Council policy and Mr Taylor's submission, Members have the following options:
- (a) To refuse the application on the grounds that the vehicle falls outside of Council policy on the age of vehicles that can be accepted for licensing on the first occasion.
  - (b) To accept the application on the grounds that the vehicle is of such a high standard for its age that Council policy should be departed from in this particular case.

## 3.0 Background

- 3.1 The City Council has statutory power under the Local Government (Miscellaneous Provisions) Act 1976 to licence private hire vehicles. The Council is able to adopt a policy in relation to the licensing of private hire vehicles and is able to attach conditions to the grant of such licences.

3.2 Private hire vehicles are licensed under section 48 of the above Act, which states:

*“48 Licensing of private hire vehicles.*

*(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 [F1Part 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.”*

3.3 Current Council policy and conditions are contained in the Private Hire Rule Book which was approved by Members at their meeting on 19 January 2010 and came into force on 1 June 2010.

3.4 The current policy includes a requirement in relation to the age of a vehicle at the first time of licensing (**Appendix A** Extract from Private Hire Rule Book) and states:-

*“3.22 Vehicles must comply with the following conditions in relation to age and length of service:*

*a vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration regardless of whether it was previously licensed anywhere else in the UK, or re-licensed after 10 years from the date of first registration.”*

3.5 An earlier edition (May 2003) of the Council’s General Conditions for Hackney Carriage and Private Hire Licensing contained the wording *“will not normally be accepted”* in place of the above thus allowing for Officer and Member discretion when deciding the merits of a particular case.

#### 4.0 Information

- 4.1 Mr Taylor has been a licensed Private Hire Driver since 2 May 2008. He works for R/JL Gloucester Limited T/A Andy Cars, Eastgate Street, Gloucester specialising as a chauffeur.
- 4.2 The Mercedes M6 NCD (**Appendix B** Library Photograph showing Mercedes S Class Long Wheelbase) was first registered with the DVLA on 23 March 2005 making it in excess of 6 years old since registration. The current mileage is approximately 120,000.
- 4.3 Mr Taylor submitted a request to licence the vehicle which was received on 5 September 2011. All relevant paperwork is attached at **Appendix C**.
- 4.4 Mr Taylor's email at **Appendix D** details his justification for the Council to depart from its age policy.
- 4.5 The vehicle will be available for inspection by Members during the Committee meeting in order that they may make a first-hand appraisal of its suitability for licensing.

#### 5.0 Conclusions

- 5.1 Members are referred to the options at 2.1(a) and (b) of this report.
- 5.2 Following the case of *R v Hyndburn Borough Council, ex parte Rauf and Kasim* (12 Feb 1992, QBD, unreported) it is possible to have a policy in relation to the age of vehicles. However the policy cannot be an immutable rule, and as such the Council cannot fetter its discretion by rigidly following the policy without treating each case on its merits.
- 5.3 The current age policy was adopted by Members. As such the Committee has the power to depart from the policy if the application is considered to be an exceptional case and that the vehicle meets the criteria for licensing.
- 5.4 It should be borne in mind that the justification behind the age policy is in order to maintain the standards of the licensed vehicle fleet and that furthermore, once licensed, a vehicle may continue to be licensed up to the age of 10 years old (Appendix A Extract from Private Hire Rule Book).
- 5.5 Should Members be satisfied that all criteria specified in s48(1) of the 1976 Act are met, then the only justification for refusing the application is on the grounds that the vehicle does not comply with the current Council policy.
- 5.6 If Members decide to depart from the policy in this instance, considered reasons will be required in order to show the justification for departing from the policy. Members should note that any decision to depart from the policy will set a precedent when considering any future applications. While any future applications would need to be considered on their own merits, if future cases could not be distinguished from this application then the rationale followed in this case would need to be applied.

5.7 Should Members decide to follow Council policy and refuse the application considered reasons will also have to be given.

## **6.0 Financial Implications**

6.1 There are no financial implications relating to this report.

## **7.0 Legal Implications**

7.1 There have been a number of legal cases regarding the appropriateness of conditions that purport to restrict the age of vehicles for licensing. The most notable case is referred to in paragraph 5.2 of the report.

7.2 It is lawful for the Council to impose a policy that no licence would be issued to a vehicle over a certain age, but on any application the Council must consider it on merit, to see if the vehicle meets the Council objectives behind the age restriction. The objectives should include such matters as safety, reliability and comfort.

7.3 In making its decision, the Committee needs to give full reasons that are linked to the reasoning behind the age restriction.

7.4 There is a right of appeal against a refusal to grant a Private Hire Vehicle Licence to the Magistrates' Court.

## **8.0 Risk Management Implications**

8.1 The risk of an appeal to Magistrates should an inappropriate or unreasonable decision be made *and the potential for a financial penalty to be incurred*.

## **9.1 People Impact Assessment (PIA)**

9.1 PIA is not required for such Private Hire cases as there are no adverse impacts or any risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.

### **Any Further Relevant Information**

None

## **10.0 Other Corporate Implications**

10.1 None

**Background Papers** : Gloucester City Council Licensing Hearing Procedure

**Published Papers** : The Local Government (Miscellaneous Provisions) Act 1976  
Gloucester City Council's Private Hire Rule Book

**Person to Contact** : Anthony D Moseley, Licensing Enforcement Officer  
Tel: 396322  
E-mail: [Anthony.david.moseley@gloucester.gov.uk](mailto:Anthony.david.moseley@gloucester.gov.uk)



**EXTRACT FROM PRIVATE HIRE RULE BOOK JUNE 2010**

**Vehicle Age and Testing**

3.22 Vehicles must comply with the following conditions in relation to age and length of service:

- a vehicles will not be accepted for licensing on the first occasion after 5 years from the date of the first registration regardless of whether it was previously licensed anywhere else in the UK, or re-licensed after 10 years from the date of the first registration.
- b the vehicle shall be removed from service on the 10th anniversary from the date of the first registration, any outstanding licence shall be transferred onto a new vehicle free of charge for the remainder of that current licence.
- c all vehicles must be tested annually to the current Licensing Authority standards. Once the vehicle has reached the age of 8 years since manufacture, the vehicle shall be tested at 6 monthly intervals until it has reached its service limit of 10 years since manufacture.
- d if the condition of the vehicle deteriorates below the acceptable standard set in the Licensing Authority vehicle test at anytime during the working life of the vehicle, the Licensing Officer reserves the right to withdraw the licence.

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**Mercedes S Class Long Wheelbase**

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ES21122  
APPENDIX C

05/09/2011 FMH

Gloucester City Council

**HACKNEY CARRIAGE AND PRIVATE HIRE  
VEHICLE LICENCE APPLICATION**

TYPE OF LICENCE APPLIED FOR: Hackney Carriage  Private Hire   
New Application  Vehicle Transfer

1. APPLICANT

Surname: TAYLOR Forename(s): SALLYN LLOYD (Joni)  
Address:  
Postcode:

2. VEHICLE DETAILS

a) Make: MERCEDES  
b) Model: S320 CDI c) Colour: SILVER  
d) Registration No.: M6 NCD e) Date of first registration: 23/03/2005  
f) Plate number (if previously issued): N/A g) No. of passengers: 4  
h) Date of purchase: 30/08/11 i) Is it wheelchair accessible: NO  
j) Is any other person/company concerned in the proprietorship, keeping, employing or letting for hire of the vehicle? Yes/No  
If yes give their name and address and exact nature of involvement:

**DECLARATION:**

- I/We declare that the information given by me in this application is correct to the best of my knowledge and belief and enclose:
  - i) The Fee - Cash, Credit/Debit Card
  - ii) Proof of ownership, for example bill of sale i.e. receipt for the money paid for the vehicle, invoice for the vehicle stating that the amount due has been paid in full, hire/purchase agreement in applicants name.
  - iii) V5 Registration document (or new keepers supplement)
  - iv) M.O.T. & Vehicle Inspection Certificate
  - v) I will produce proof of Hackney Carriage / Private Hire Insurance Cover prior to the Issue of the vehicle licence
  - vi) New Applications - Meter Inspection Certificate
- I consent to the Council retaining my application and details on its database(s). I understand that the Council is obliged to pass on information to other statutory bodies if requested.
- I have received a copy of the Council's conditions, rules and policies relating to Private Hire and Hackney Carriage Licensing and have read the guidance notes overleaf. I have read and understand the conditions and undertake to comply with them if a Vehicle Licence is granted.

Applicants are advised that to make knowingly or recklessly a false statement or omit any information from this application is a criminal offence.

Applicants Signature: \_\_\_\_\_ Date: 05/09/11

Receipt No.: ..... Receipt Date: ..... Insurance Expiry Date: .....

**ENVIRONMENTAL HEALTH & REGULATORY SERVICES**

HC/PH VLICAPP/20/04/11

Gloucester City Council Tel 01452 396396 Fax 01452 396207  
Herbert Warehouse Email [heretchalp@gloucester.gov.uk](mailto:heretchalp@gloucester.gov.uk)  
The Docks Minicom 01452 396161  
Gloucester GL1 2EQ [www.gloucester.gov.uk](http://www.gloucester.gov.uk)

VT20

I have seen the original of this document  
 MOT test Certificate  
 05/09/2011 FMH



This certificate has been issued according to the conditions and notes on the back of this certificate.

Vehicle & Operator Services Agency

Note: If you have doubts as to whether this certificate is valid, please use the service described in note 3 overleaf to check.

MOT test number: 355882911097  
 Make: MERCEDES  
 Odometer reading: 114308 Miles

Registration mark: M6NCD  
 Model: S 320  
 Test class: IV

Vehicle identification or chassis number: WDB2201252A447534  
 Colour: SILVER

Expiry date: JANUARY 11th 2012 (TWELVE)  
 Issue date/time: JANUARY 12th 2011 (ELEVEN) 16:14

Additional information: N/A

To preserve the anniversary of the expiry date the earliest you can present your vehicle for test is 12/12/2011

Advisory Notice Issued: NO

Test station number: 1892B3

**For all vehicles with more than 8 passenger seats**

Seat belt installation checked this test: N/A  
 Number of seat belts fitted at time of installation check: N/A  
 Previous installation check date: N/A

Issuer's name in CAPITALS: C. A. WILD

Signature of Issuer

**Warning:** A test certificate is not evidence that the vehicle is in a satisfactory condition.  
 Check carefully that the above details are correct.  
 Do not accept a certificate which has been altered.

Affix sticker to inside of windscreen as a reminder

Reg Mark: M6NCD  
 Make: MERCEDES  
 Test Station: 1892B3  
 MOT Expiry: JANUARY 11th 2012 (TWELVE)

Post here

Inspection Authority  
 HEMPSTED MOTOR CENTRE LTD  
 UNIT 2F  
 SPINNAKER PARK  
 HEMPSTED LANE  
 GLOUCESTER  
 GL2 6HS  
 01452307241

# Gloucester City Council

## PRIVATE HIRE VEHICLE INSPECTION SHEET

Name of Approved Testing Station	W. MADDOX GARAGE
Date of Vehicle Inspection	5/9/11
Vehicle Registration & Plate No	M6 NCD
Make & Model	MERCEDES
Mileage	129 589

ENGINE AND TRANSMISSION	PASS	FAIL	DEFECTS/COMMENTS
Engine oil level	✓		
Water level radiator and cooling system	✓		
Fuel leaks	✓		
Oil leaks	✓		very slight oil leak
Engine and gearbox mountings	✓		
Security of starter and alternator	✓		
Drive belts	✓		
<b>INTERIOR</b>			
Operation of Wipers	✓		
Operation of horn	✓		
Condition of mirrors	✓		
Condition of windscreen	✓		
Fire Extinguisher (1kg Powder)	✓		
First aid kit fitted and contents checked	✓		
Door locks/handles in working order	✓		
Grab handles condition/security	✓		
Seatbelts operation/security	✓		
Condition of pedals	✓		
Handbrake in good working order	✓		
Seating clean and in good condition	✓		
Interior light is working	I have seen the original of this document		

05/09/2011 FMM

### ENVIRONMENTAL HEALTH AND REGULATORY SERVICES

Gloucester City Council  
Herbert Warehouse  
The Docks  
Gloucester GL1 2EQ

Tel 01452 396303 Fax 01452 396340  
Email heretohelp@gloucester.gov.uk  
Minicom 01452 396161  
www.gloucester.gov.uk



**GLOUCESTER**  
**CITY COUNCIL**

INTERIOR Cont.....	PASS	FAIL	DEFECTS/COMMENTS
Heating/ventilation system working	/		
Headlining/door panels/carpets clean good condition	/		
Luggage restraint fitted and working (not saloons)	/		
Double sided interior plate displayed in windscreen pouch			
Two way radio/phone handsfree kit safely & securely installed			
Spare wheel/jack/brace fitted and working	/		
Meter securely mounted in conspicuous position (where fitted)			
Tariff card displayed in prominent position (where meter fitted)			
EXTERIOR			
Bodywork in good condition (dents/scratches/discoloration)	/		
Mirrors missing loose or damaged	/		
Wheel trims missing or damaged	/		
Aerials intact			
External plate firmly fixed to the rear of vehicle and in good condition			
External plate firmly fixed to the front of vehicle and in good condition			
Door panels must be fitted and in good condition			
CHASSIS AND CHASSIS MOUNTED COMPONENTS			
Steering components/linkage wear and security	/		
Play in king pins/thrust bearings	/		
Wheels do not foul on full lock	/		
Wheel bearings for excessive play	/		
Power steering operation and leaks	/		
Springs free cracks, worn or displaced	/		
U bolts for tightness	/		
Wear in bushes	/		

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05/09/2011 JMH



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05/09/2011 FMH

CHASSIS AND CHASSIS MOUNTED COMPONENTS Cont.....	PASS.	FAIL	DEFECTS/COMMENTS
Shock absorbers condition	/		
Brake fluid level/leaks	/		
Servo/brake pipes/cables condition	/		
Brake linings pads and discs condition	/		
Fuel tank/pipes leaks and condition	/		
Wiring condition and security	/		
Exhaust pipe/boxes condition and security	/		
Chassis damage/corrosion	/		
<b>WHEELS AND TYRES</b>			
Wheel/rims-cracks/damage/corrosion	/		
Tyres-correct type/pressure/damage/tread depth	/		
<b>LIGHTS AND ELECTRICS</b>			
Battery and cradle-clean and secure	/		
Electrolyte level	/		
All lights working/correct bulbs	/		
Meter working accurately (3 rates)			
<b>ROAD TEST</b>			
Operation of foot and hand brakes	/		
Clutch for excess travel/slip/judder	/		
Steering for noise/stiffness/free play/self centre/wheel imbalance	/		
Suspension for noise/ride/handling	/		
Operation of speedo/gauges/warning	/		

Signature of person carrying out inspection	
---	--

I have seen the original of this document  
05/09/2011 FMH

**10** New Keeper Supplement - To be retained by new keeper **DO NOT** send to DVLA (see note overleaf) *Please use duplicate if applicable* **V56/2**

Registration Mark	<b>M6 NCD</b>	Validation character	<b>7</b>	Make	<b>MERCEDES</b>
Please write New Keeper's name and address	<b>SILWYN TAYLOR</b>			Model/Type	<b>S320 CDI LIMOUSINE A</b>
Write date of sale/transfer here	<b>13 10 09</b>			Date of first registration	<b>23-03-2005</b>
Doc. Ref. No.	<b>39288 816 1053</b>	<b>13 10 09</b>		Wholesaler	<b>2-AXLE-RIGID BODY</b>
Despatch Codes	<b>1078889530 / 0753</b>	<b>45</b>		Revenue weight	<b>2480 KG GROSS</b>
				Taxation class	<b>DIESEL CAR</b>
				Type of fuel	<b>HEAVY OIL</b>
				Cylinder capacity	<b>3222 CC</b>
				CO <sub>2</sub>	<b>209 G/KM</b>
				No. of seats inc. driver	<b>5</b>

**FOR OFFICIAL USE ONLY**  
  
**0288-3329 2880 0037 2817-4119**

**THIS WILL NOT PRODUCE A REGISTRATION CERTIFICATE**

\*The taxation class can only be changed on re-issuing. Please apply at your nearest DVLA Local Office.

N. SINGHALL

I have seen the original of this document

05/29/2011 FMH

30/08/11

Bill of Sale

To. JOHN TAYLOR

MERCEDES S CLASS

320 CDI L.

SILVER

REG. M6. NCS

For Agreed Sum. £10,000

Signed

N. SINGHALL

---

## FAX TRANSMISSION

---

To:

John Taylor

From:

Paul Smith Associates

Tel: 01278 427678

Fax: 01278 427674

No. of Pages: 2

Date: 05 September 2011

Your Ref: Not Applicable

Our Ref: TAYLSE1/PS

Re: Motor Policy - 00001986252

---

John,

Cover note for Mercedes attached. As agreed I have changed Lexus policy to cover Mercedes and issued a 14 day cover note on Lexus, so both vehicles are covered until 19<sup>th</sup> September. Please let me know how you wish to proceed before this date.

Regards,



PAUL SMITH

I have seen the original of this document  
05/09/2011 FMH

~

**MARKERSTUDY INSURANCE COMPANY LIMITED**  
**TEMPORARY COVER NOTE AND**  
**CERTIFICATE OF MOTOR INSURANCE**

MARIA 0243270

Time and Date of Issue of this Cover Note 9:30 a.m. on the 5<sup>th</sup> day of September 2011  
 Time and Date of Commencement of Insurance for the purpose of this Act 9:30 a.m. on the 5<sup>th</sup> day of September 2011

When this Cover Note expires, Underwriters are not in this unless a permanent Certificate of Insurance or another Temporary Certificate has been issued.

Having made a proposal for insurance for the vehicle described below the insurance is provisionally valid in force for 30 DAYS ONLY from the date herein in the terms of the usual form of Policy Document applicable to the risks described in the Certificate below. In the event of the cover being terminated by written notice delivered to the Proposer at the address below the insurance will cease immediately upon such delivery, and a premium will be charged for the time the Underwriters have been on risk.

Please indicate purpose for which Cover Note issued

1) COVER NOTE	<input checked="" type="checkbox"/>	CONTINUATION	<input type="checkbox"/>
RENEWAL	<input type="checkbox"/>	ADDITIONAL VEHICLE	<input checked="" type="checkbox"/>
OTHER CHANGES	<input type="checkbox"/>		
ALARM/IMMOBILISER FITTED <input checked="" type="checkbox"/>			
MAKE <u>MANUFACTURER</u>			

PROPOSER (Name and Surname) (BLOCK LETTERS)  
Mrs Maria Lisa Taylor  
 Address (in BLOCK LETTERS)  
2

Policy No. 00001986252  
 Precise Occupation, Profession or Business  
Taxi Driver

Make & Model of Vehicle*	Body	Class	Capacity	Year of Make	Colour	Registration
<u>MANCADO 5 320 CDI</u>	<u>Sal</u>	<u>5</u>	<u>3200</u>	<u>2005</u>	<u>Black</u>	<u>M640</u>

Persons or Classes of Persons Entitled to Drive †

Licensed only  Licensed and licensed only  Licensed and licensed only (please specify)

† If the vehicle has been modified, covered, or otherwise in use, increased performance from the manufacturer's standard construction (including any internal strengthening) will cause this to be voided by the insurer.

COVERED (Please tick appropriate boxes)  Comprehensive  Third Party Only

Accidental Damage/Fire & Theft each accident or loss additional to any other excess applicable under this insurance.

USE PERMITTED (Please tick as necessary)  
 Local (within 100 miles of place of issue) including returning by road to place of issue  
 Short distance (within 100 miles of place of issue) including returning by road to place of issue  
 Long distance (within 100 miles of place of issue) including returning by road to place of issue

Special Conditions

CERTIFICATE OF MOTOR INSURANCE (This Certificate is subject to the provisions of the relevant law applicable in Great Britain, Northern Ireland, the Isle of Man, and the Channel Islands)

Issued through 12 H.S. SMITH For and on behalf of Markerstudy Insurance Company Limited  
 Broker's Name and Branch SM Authorized Insurers:  
 Agents for the Proposer: SM  
 This temporary proposal:  
 Advice to Third Parties: Having complied in the Certificate above your right as a Third Party to make a claim  
 Margate Security Code for Station I.D. SM

I have seen the original of this document  
 05/09/2011 FMH

I have seen the original of this document  
05/09/2011 FMH



**GLOUCESTER**  
**CITY COUNCIL**

Gloucester City Council  
Herbert Warehouse  
The Docks  
Gloucester  
GL1 2EQ

VAT Reg GB-276 1159 53

Receipt no: 0465308933692619  
\*\*\* 05-09-11 12:34:15 \*\*\*

Taxi Licensing

Name: selwyn taylor  
Badge No.: 188phv  
Fund Payment: £183.50  
Amount Paid In: £180.00  
Change Given: £3.50  
Net Payment: £183.50  
Payment Method: Cash

**From:** Andy Cars [mailto:andycarsgloucester@yahoo.co.uk]  
**Sent:** 04 October 2011 15:21  
**To:** Anthony David Moseley  
**Subject:** Mercedes S320 cdi private hire licence application.

**ES21122**  
**APPENDIX D**

Dear Sir/Madam

I would like you to consider the application I have made to licence my Mercedes S Class (Long Wheelbase) for use as a Chauffeur car.

This vehicle is in excellent condition and cost in excess of £55,000.00 back in 2005.

Many of our top clients request vehicles of this calibre, but due to the cost of these vehicles new, we have to buy used vehicles in the best condition.

Many of our clients have and do include the likes of Lord Coe, Baroness Fritchie, TV presenters and many other celebrities.

This vehicle is available for inspection at anytime.

I trust you will look on this application favourably.

Kindest regards

John Taylor

Andy Cars  
64 Eastgate Street  
Gloucester  
GL1 1QN  
01452 523000

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# Gloucester City Council

<b>COMMITTEE</b>	<b>: LICENSING AND ENFORCEMENT</b>
<b>DATE</b>	<b>: 18<sup>TH</sup> OCTOBER 2011</b>
<b>SUBJECT</b>	<b>: STREET TRADING APPEAL – HOT FOOD UNIT CEMETERY ROAD, GLOUCESTER</b>
<b>DECISION TYPE</b>	<b>: -</b>
<b>WARD</b>	<b>: MATSON &amp; ROBINSWOOD</b>
<b>REPORT BY</b>	<b>: REGENERATION GROUP MANAGER – SERVICES, FACILITIES AND SUPPORT</b>
<b>NO. OF APPENDICES</b>	<b>: A– APPLICATION AND PHOTOGRAPHS B – STREET TRADING CRITERIA</b>
<b>REFERENCE NO.</b>	<b>: PT181011A</b>

## 1.0 PURPOSE OF REPORT

- 1.1 To consider an appeal from Mr McCormick regarding refusal of street trading consent against agreed criteria.

## 2.0 RECOMMENDATIONS

- 2.1 Members are recommended to resolve:-

A. To dismiss the appeal STAPP31 (Mr.McCormick) and uphold the reasons for refusal of street trading consent namely:

- 1) It is considered that the siting of the unit in a residential area will increase problems with noise, smell, litter and an increase in traffic.
- 2) The proposed offer is not compatible with the character of the area in which it is proposed to be situated and neither enhances the area or adds vitality.

## 3.0 BACKGROUND

- 3.1 The Council adopted a new policy and process for Street Trading Applications in April 2009. A key driver to the policy change was the recognition that, if properly co-ordinated and controlled, street activity can provide significant benefits in terms of colour, vitality and life to the streets.
- 3.2 The new policy introduced two new areas, that of an agreed Street Trading Criteria (Appendix B) and a consultation programme.
- 3.3 The policy has been in place for 2 years and in that time there have been significant improvements to the street trading activity both in the city centre and in the surrounding area.

**4.0 STREET TRADING APPEAL- STAPP31 (MR McCORMICK)**

- 4.1 A street trading application was received on 12<sup>th</sup> August 2011 for a hot food unit in Cemetery Road, operational Monday to Thursday between 7am until 12 pm Fridays 7am until 2 am and Saturdays between 12 noon and 2 am (Appendix A)
- 4.2 Julie Wells (Group Manager – Regeneration) contacted Mr McCormick to advise that a previous application in this location had been refused due to the number of objections from local residents regarding noise, litter, traffic and concerns about anti- social behaviour.
- 4.3 Mr McCormick acknowledged those concerns and requested that his application be amended to allow operation between the hours of 7am until 1pm from Monday to Saturday.
- 4.4 Consultation was carried out as outlined in the policy with the following:

Gloucestershire Constabulary  
Gloucestershire Fire and Rescue  
Gloucestershire County Highways  
Cabinet Member  
Ward Councillors  
Cemetery Road Residents.

- 4.5 Five objections were received to the application, details of which are as follow:

Resident A – A catering unit is not appropriate in proximity to the cemetery. An express shop is already available at the garage opposite. A catering unit already operates in the lay by opposite Homebase. Traffic and parking difficulties already exist in Cemetery Road. A catering unit may worsen the position.

Resident B – We feel that having a breakfast/lunch van will add to the congestion on Cemetery Road and that road is not wide enough to support a parked van. This application will encourage lorries to park up too! For these reasons we would decline this application.

Resident C – I would like to register my strong objections against this mobile food vendor being place in the above mentioned road.

As before, the road is currently a dumping ground for rubbish with people parking up to eat takeaways which are then dumped out of the windows along with other bags of rubbish that people throw out of the windows as they drive by. This has caused rats and mice to be seen frequently in the area which is unsanitary. With a mobile food takeaway unit placed in the area I fear this will increase tenfold. There is also the issue of smell that will come from 'said' van which I don't think as residents we should have to put up with.

I also do not think there will be much need for such a 'business' here as we already have a McDonalds/Tesco nearby that sell breakfasts. There is another issue with the road getting more traffic which is definitely not needed as it is a 'rat run' already

with people speeding along the 20mph zone as a cut through, it can be extremely dangerous during school times as it is. Plus the added factor that the van is an eyesore.

I would urge you to send a member of the planning department down to Cemetery Road to see the rubbish that is already covering the area and ask you to reject this proposal.

Resident D – please can I register my strongest possible opposition to this application for the reasons below:

There is already a similar mobile catering unit less than half a mile away on the A38 Eastern Avenue on the industrial estate and is situated next to Screwfix, a more appropriate place for a mobile unit of this type I believe. Most footfall due to tradesmen using these units early in the morning.

The application is in the middle of a residential area and is surrounded by and overlooked by houses. Thus it will be an eyesore and could result in more traffic in a small area that is not built to cope with it. We already have an issue with parking in this street, sometimes not being able to park outside your own property, which causes frustration and from a personal point of view I believe that having this unit in Cemetery Road will only add to this, increased traffic and increased vehicles trying to park. Cemetery Road is too small and too narrow.

I do not think that a unit of this type is acceptable in a residential area and will impact adversely on the residents quality of life.

Unfortunately, as we do see in other areas, a unit of this type will automatically attract groups to hang around the area, potentially resulting in disorder and certainly an amount of rubbish. Why should local residents, most of whom are elderly, have to endure this, when we already have an issue with people seemingly thinking it ok to dump rubbish near the wall next to the car wash?

Personally I find the idea of a mobile catering unit adjacent to a cemetery as incredibly distasteful and disrespectful to the cemetery itself and also the cause of distress to visitors to the cemetery. Paying respect to ones loved ones should not be done surrounded by both rubbish and the smell of fast food.

Resident E – I object on the following grounds.

We already suffer from people using Cemetery Road as a rat run bypassing the roundabout. I am sick to the back teeth of having my car damaged and the associated costs. This damage happens late at night either by yobs for drunken people. I do not want more people transiting this road which I am positive would result in even more damage.

Idiot car drivers speed down this road, they do not obey the limits and because of this it is noisy. Put a burger van in the road and there will be more cars coming down the road, hence more noise.

I am also sick of constantly picking up litter, even though there is a litter picker. People will come to this road and dump rubbish near the wall and in the Summer youths gather in the corner of the cemetery and dump beer cans and other rubbish.

The bottom line is that the van will result in more rubbish and cars in the road. I do not want it here, sorry to be a NIMBY but my concerns are justified, you don't have to live here, I do.

Gloucestershire Constabulary commented:- There may be issues with parking if the van is positioned at the residential end of Cemetery Road, however if the van is situated at the end of the road closest to the Cemetery itself, we do not foresee any traffic related issues.

Paul James commented: - that the unit would have to be sited sensitively in relation to the Cemetery.

Councillor Smith had no objections.

No other responses were received.

4.6 I considered the proposal against the agreed criteria and resulting consultation. The application was refused for the following reasons:

- 1) It is considered that the siting of the unit in a residential area will increase problems with noise, smell, litter and an increase in traffic.
- 2) The proposed offer is not compatible with the character of the area in which it is proposed to be situated and neither enhances the area or adds vitality.

4.7 Mr McCormick was informed of this decision on 16<sup>th</sup> September 2011.

## **5.0 APPEAL DETAILS**

5.1 The following appeal was received by email on 20<sup>th</sup> September 2011

Firstly I would like to thank you very much for all your help and assistance throughout this process.

As you will already know, the side road with which I wish to place my unit is already an official Highways designated parking area for workers from all trades and backgrounds to safely take a driving break. This established parking area is often used as it is a vital link road with safe access to enter and exit.

Please allow me to address the reasons for refusal.

Reason 1 – Noise, Smell, Litter and an increase in traffic.

The equipment to run the trailer would be what is called 'a silent running generator' and they are incredibly quiet, even stood next to one, the narrow boat users are asked to use them so as not to cause nuisance to neighbouring moored vessels.

Litter, 99% of my customers would be commuters and not pedestrian. I would stress to my customers if eating outside while stretching their legs to use the closed lid waste bin provided.

Smell, freshly prepared food rarely produces a smell. One only possible cause can simply be onion and this would not be sold. My aim is to produce a high quality service offering fresh food and beverage.

Compatibility, the Council has already designated the area a resting/parking area prior to my application. I would be very happy to meet with the council and residents to discuss the smallest possible catering unit considered safe to work in and colour.

I would be, at my best guess, at least 70 metres from the first house in that terrace if not more, I would ask my customers to exit Cemetery Road via Eastern Avenue and not past the homes, which as a driver entering back on Eastern Avenue is far easier.

The hours I wish to operate are 7.30 to 13.30 interfere with nobody's quality of life, for the residents of Cemetery Road, I took a walk along the terrace and I would not be seen, heard and certainly not smelt.

Less than 10 metres from all of the residents in that bottom terrace, permission has been granted to operate a hand car wash, this will I assume be open for approximately 12 hours per day operating multiple vacuum cleaners (industrial) and jet washers (industrial). For those of you in the committee that have used these type of facilities you will agree are extremely noisy sites.

One of your criteria states that the trader shall provide a service which is of benefit to the public and brings new products to the area. I propose a unit with agreed colouring, i.e. cream or other chosen scheme, a size to be in keeping and freshly prepared food and beverage in an area that would benefit the people who stop there for a short period to rest and refill themselves with food and beverage.

Ladies and Gentlemen of the committee, I am prepared to fund the purchase of a unit that satisfies all concerns, please allow me the opportunity to provide a valuable service at no detrimental cost to anyone.

Throughout Gloucester City and its suburbs there are many many sandwich shops issued licences, situated on roads providing no safe parking whatsoever and with residential properties completely surrounding the property and above. I do not have the skills to word and submit the application they are obviously successfully putting to yourselves, however I am offering the same professional service in an area impacting on no-one, serving those in need and the with care and consideration of its distant residents.

Please allow me this license application and the opportunity to interact and communicate with those concerned residents to find a unit and menu that pleases.

Thank you all for your time.

## 6. APPEAL RESPONSE

6.1 Confirmation has been sought regarding the statement that the area in question is a designated lay by. Glenn Dooley, Highways Area Programme Manager at Gloucestershire County Council commented:-

‘The access road is not signed in any way as a rest area and looking at the access in and out it hasn’t really been designed for large turning movements. I would therefore reply that this is not a designated rest area and we would not want to sign it as such.’

6.2 Assuming therefore that this is an unofficial rest area that does not mean that it needs a food unit placed there to service it. There are several other units in close proximity where food and drinks can be purchased.

6.3 Whilst I appreciate Mr McCormick’s desire to start a business and his willingness to engage with the residents regarding the unit and menu, I do not believe this outweighs the very genuine concerns raised by the Residents.

6.4 There are a significant number of objections to the application from people who actually live in the area and who already have to deal with noise, traffic and litter. Whilst I note Mr McCormick will make every possible effort to keep any further disruption to a minimum it has to be recognised that there is still likely to be an impact due to the unit trading at this point.

The committee is recommended to dismiss the appeal and uphold the reasons for refusal.

## 7.0 FINANCIAL IMPLICATIONS

None.

## 8. LEGAL IMPLICATIONS

8.1 Street trading is regulated under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

8.2 The criteria that has been imposed by the Council to determine Applications, needs to comply with both the Act and the EU Services Directive

**Background Papers** :

**Published Papers** :

**Person to Contact** : Julie Wells  
Tel: 396363  
E-mail: [Juliew@gloucester.gov.uk](mailto:Juliew@gloucester.gov.uk)

APPENDIX A

# GLOUCESTER

## CITY COUNCIL



### APPLICATION FOR STREET TRADING CONSENT

I/We HEREBY MAKE APPLICATION to Gloucester City Council for consent to trade in streets designated "Consent Streets" by resolution of the City Council in accordance with paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

<b>1. FULL NAME &amp; ADDRESS OF APPLICANT</b> In case of a limited liability company the name of the company and its registered office must be given, together with an address for correspondence if different.																						
<b>2. CONTACT DETAILS</b>	Telephone Number Home C																					
	Telephone Number Mobile C																					
	Email Address L																					
<b>3. DATE OF BIRTH</b>	06/04/68																					
<b>4. DESCRIPTION OF GOODS/SERVICES TO BE SUPPLIED</b>	HOT + COLD FOODS Breakfast / Lunch																					
<b>5. DESCRIPTION OF VEHICLE OR STALL (REGISTRATION NUMBER WHERE APPLICABLE)</b>  Please provide a photograph of the stall/unit.	10x6 MOBILE CATERING UNIT																					
<b>6. MOBILE OR STATIC TRADER?</b>	MOBILE																					
<b>7. LOCATION FOR WHICH CONSENT IS REQUIRED.</b> Please clearly describe the exact location (N.B a separate application is required for each named site.	CEMETRY ROAD APPROX. 25 YDS INSIDE FROM ENTRANCE																					
<b>8. PROPOSED DAYS AND TIMES YOU INTEND TO TRADE</b>	1 pm. <table border="0"> <tr> <td>Monday</td> <td>7 a.m until</td> <td>12 p.m</td> </tr> <tr> <td>Tuesday</td> <td>7 a.m until</td> <td>12 p.m</td> </tr> <tr> <td>Wednesday</td> <td>7 a.m until</td> <td>12 p.m</td> </tr> <tr> <td>Thursday</td> <td>7 a.m until</td> <td>12 p.m</td> </tr> <tr> <td>Friday</td> <td>7 a.m until</td> <td><del>12 p.m</del> 2 p.m</td> </tr> <tr> <td>Saturday</td> <td>12 a.m until</td> <td><del>12 p.m</del> 2 p.m</td> </tr> <tr> <td>Sunday</td> <td>a.m until</td> <td>p.m</td> </tr> </table>	Monday	7 a.m until	12 p.m	Tuesday	7 a.m until	12 p.m	Wednesday	7 a.m until	12 p.m	Thursday	7 a.m until	12 p.m	Friday	7 a.m until	<del>12 p.m</del> 2 p.m	Saturday	12 a.m until	<del>12 p.m</del> 2 p.m	Sunday	a.m until	p.m
Monday	7 a.m until	12 p.m																				
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Friday	7 a.m until	<del>12 p.m</del> 2 p.m																				
Saturday	12 a.m until	<del>12 p.m</del> 2 p.m																				
Sunday	a.m until	p.m																				
NB. Any variation to consented dates/times of trading will require written approval <u>before</u> trading takes place.																						

RECEIVED  
12 AUG 2011  
REGENERATION

<p><b>9. FEES</b></p> <p><b>TO BE PAID MONTHLY IN ADVANCE. INITIAL PAYMENT REQUIRED ON CONSENT, FURTHER PAYMENTS ON ISSUE OF INVOICE OR DIRECT DEBIT – PLEASE INDICATE YOUR PREFERENCE.</b></p>	
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**INFORMATION IN SUPPORT OF YOUR APPLICATION:-**

**ACCEPTANCE:** I confirm that I have read the attached Street Trading Terms and Conditions and agree to the terms if consent is awarded

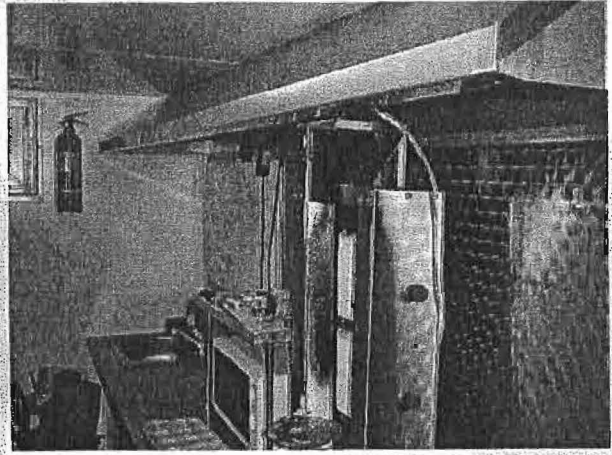
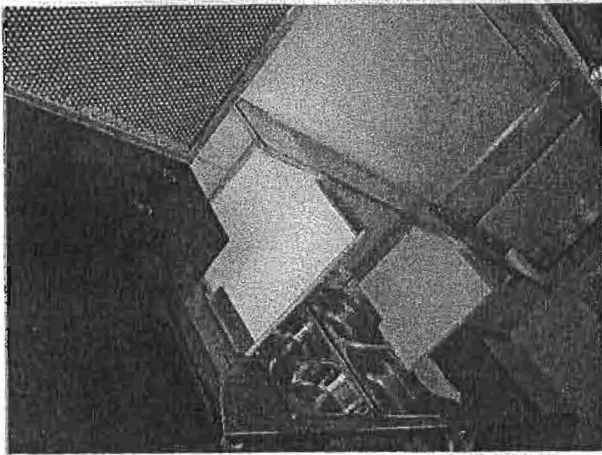
Signature of Applicant.....

Date 10/8/11

This authority is under a duty to protect the public funds it administers, and to this end may use the information you provided on this form within this authority for the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes.

**Return this form to:**  
**Julie Wells**  
**Regeneration**  
**Gloucester City Council**  
**Herbert Warehouse**  
**The Docks**  
**Gloucester GL1 2EQ**







APPENDIX BCriteria for Determining Street Trading Consent Applications in the City of Gloucester

- Each application will be judged on its own merits
- The number of traders in any one street will be limited so as not to cause undue concentration.
- The siting and operation of any trader shall be such that it does not cause any problems of highway safety, obstruction to users of the highway, obstruction to important sight lines for CCTV cameras, unreasonable obstruction of the visibility of neighbouring businesses, or conflict with the requirements of emergency vehicles.
- Locations for uses with particular needs (such as water or electricity supply) will only be considered where these supplies can be safely and conveniently provided.
- The use shall be compatible with the character of the area in which it is proposed to be situated.
- The proposed use shall be compatible with any other nearby traders and businesses. It shall not be in direct competition, in terms of goods primarily sold, with nearby shops, restaurants or hot food take-aways (Note: nearby businesses and trader may be consulted on application)
- The trader shall provide a service, which is of benefit to the public and which enhances the area, by bringing in new products or adding to the vitality of the area/shopping centre.
- The appearance and use of the Street Trading Unit including associated equipment or structures shall be of a good quality and complementary to the ambience and vitality of the locality. The precise appearance of the facility will need to be identified before consent is granted. (For the sake of clarity, it is acknowledged that 'good quality' is a subjective judgement, but it will include reference to quality and condition of the stall, product and staff, both in their attire and demeanour, and will be applied at both the inception of the consent and continue during operation.)
- Uses involving the sale of food and noise emission shall meet the requirements of Environmental Health and these will need to be identified before consent is given.
- Uses that are likely to cause problems of noise, smell, litter or late night disturbance especially in residential areas will not be given consent.
- Consent/renewals will not be considered for any trader in arrears with fees until such arrears are paid in full.
- Prior to the issue of any consent the trading unit and associated equipment may, be inspected by an officer authorised by the Council to ensure that the unit adheres to all relevant and legal conditions.

*Compliance of Street Trading activity with Legislation*

*The Street Trading activity shall, at all times and in all respects, comply with legal requirements relating to that type of activity, including but not restricted to the following:*

- *Food Safety Act 1990*
- *Health & Safety at Work Act 1974 and any regulations made under this act.*
- *Environmental Protection Act 1990*
- *Trading Standards Legislation*
- *Regulation (EC) No. 853/2004 on the Hygiene of Food Stuffs.*
- *The General Food Law Regulation (EC) 178/2002*
- *The General Food Regulations 2004 (as amended)*
- *The Licensing Act 2003*
- *The Health Act 2006 (Smoke Free premises provisions)*
- *The Food Hygiene (England) regulations 2006*

# Gloucester City Council

<b>Committee</b>	: GLT LICENSING AND ENFORCEMENT CABINET BRIEFING FOR INFORMATION
<b>Date</b>	: 4 <sup>th</sup> OCTOBER 2011 18 <sup>TH</sup> OCTOBER 2011 26 <sup>th</sup> OCTOBER 2011
<b>Subject</b>	: TYPES OF HACKNEY CARRIAGE VEHICLES
<b>Decision Type</b>	: BUDGET POLICY FRAMEWORK
<b>Ward</b>	: ALL
<b>Report By</b>	: GILL RAGON, GROUP MANAGER OF ENVIRONMENTAL HEALTH AND REGULATORY SERVICES
<b>No. Of Appendices</b>	: APPENDIX A – PHOTOGRAPH OF A PEDICAB APPENDIX B – CURRENT HACKNEY CARRIAGE CONDITIONS APPENDIX C – HACKNEY CARRIAGE BYELAWS
<b>Reference No.</b>	: ES21121

## 1.0 Purpose of Report

- 1.1 A request has been received from a member of the public to consider licensing Pedicabs (sometimes known as rickshaws), as hackney carriage vehicles in Gloucester City. Members are requested to consider the practical consequences regarding the use of this type of vehicle as a hackney carriage in the district.

## 2.0 Recommendations

- 2.1 The Committee agree in principle to considering the licensing of Pedicabs in Gloucester City and agree to devote resources into developing a policy for the use of Pedicabs as hackney carriage vehicles in Gloucester City if an appropriate and legally viable approach can be found.

OR

- 2.2 The Committee recognise that licensing Pedicabs in Gloucester City is not appropriate at this time.

## 3.0 Background

- 3.1 Pedicabs (sometimes referred to as cycle rickshaws) are pedal-powered cycles (typically with three or four wheels) used for the purpose of carrying fare-paying passengers. Within this country they are a relatively new form of public transport and prominently feature in the London street scene. Outside London such vehicles are classified as hackney carriages. Within London different laws apply and they are not licensed as hackney carriages, no formal regulations are in place to regulate this mode of transport outside of London. A photograph of a Pedicab is attached at Appendix A.

3.2 **Definitions:**

Section 38 of the Town Police Clauses Act 1847 explains the definition of a Hackney Carriage “Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance”. A Pedicab is a small three-wheeled vehicle having a seat, pedals, and handlebars in front for the operator and a usually hooded cab in back for passengers and is therefore included in this definition.

3.3 The Council therefore has the discretion under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to license Pedicabs as hackney carriages. Furthermore the 1976 Act permits the Council to impose conditions on the grant of a hackney carriage vehicle licence.

3.4 It is not lawful to licence these Pedicab vehicles as private hire vehicles because the legal definition of a private hire vehicle commences with “A motor vehicle...”.

3.5 The power to license Pedicabs as hackney carriages was clarified in the Court of Appeal (R v Cambridge City Council ex parte Lane – 13 July 1998) where they determined that rickshaws/Pedicabs are licensable not as omnibuses but as hackney carriages. As such a Pedicab falls within the definition of a hackney carriage vehicle under Section 38 of the Town Police Clauses Act 1847, and so are licensable in the same way as motor vehicle hackney carriages.

3.6 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 provides that: -

- a) A District Council may attach to the grant of a Hackney Carriage under the Act of 1847 such conditions, as the District Council may consider reasonably necessary.
- b) 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.
- c) Any person aggrieved by any conditions attached to such a licence may appeal to a Magistrates Court.

3.7 Other District Councils outside London have licensed Pedicabs as hackney carriages but many schemes have failed through lack of use. Apparently the Pedicab operators quickly went out of business, with the work being somewhat seasonal. Schemes in Cambridge, Oxfordshire and York have either not been approved or subsequently abandoned due to lack of use. North Norfolk, East Lindsey, and Herefordshire Councils appear to have successfully licensed Pedicabs as hackney carriages.

3.8 The Council has a strict policy regarding the type and specification of vehicles, which may be licensed as hackney carriage vehicles. The Council’s current standard conditions for licensing hackney carriage vehicles and drivers are set out in Appendix B and a Copy of our Hackney Carriage Byelaws can be seen in Appendix C. A Pedicab does not meet our current specifications. If Pedicabs are approved as hackney carriages Members would need to consider developing and adopting specific vehicle conditions for Pedicabs to operate in Gloucester City.

- 3.9 Legally the Council can change from its current policy if it feels that there are sufficient reasons to do so, to consider the licensing of other types of Hackney Carriage Vehicles. The final decision on this matter would be referred to Full Council in accordance with the City Council Constitution.
- 3.10 A Private Member submitted a Pedicab Bill to Parliament on 18 January 2010. This was the First Reading and there was no debate on the Bill at this stage, however, it is not expected that this Bill will make any further progress. The Bill would have made provision for the control of Pedicabs, defined in the Bill as a 'cycle constructed or adapted to seat one or more passengers, for the purpose of carrying passengers in the course of a business'. The Bill's provisions would include licensing and registration of Pedicabs, the maximum number of passengers to be carried, reporting of accidents and display of advertisements.

#### **4.0 Progress**

- 4.1 A request has been received from a Member of the public seeking to set up a Pedicab business in Gloucester City Spring/Summer 2012. The applicant has been advised that we currently have no such policy for licensing these types of vehicles in the City, but that we will seek a Member decision on whether or not we want to license them as an alternative mode of transport that is more environmentally friendly and could be a visitor attraction. The Pedicab vehicle is available for inspection by Members during the Committee meeting.
- 4.2 Each application would need to be determined on its own merits and consideration would need to be given to whether or not each Pedicab is an appropriate form of transport to be licensed as a hackney carriage in Gloucester City. However, there are also a number of other issues which will need to be considered should Members be minded to approve the licensing of Pedicabs:
1. Safety (structurally and mechanically safe)
  2. Fares (metered fare or fixed fare)
  3. Routes/Areas of Operation (Designated area or at operators discretion)
  4. Riders obligations (Medical fitness, proof of cycling skills)
  5. Ranks (shared or specially designated)
  6. Equalities Act 2010
- 4.3 If Members agree that Officers devote resources to setting out a policy for Licensing Pedicabs. Further legal clarification will need to found on the following matters:
1. Whether the legislative framework can allow for the setting of separate fares for different types of Hackney Carriages.
  2. The ability to restrict routes or pre-approve any Pedicab routes of operation when hackney carriages can stand or ply for hire anywhere within prescribed area.
  3. The use of existing/Provision of new Taxi Ranks by Pedicabs.
  4. Obligations on hackney carriage drivers not to refuse a fare or journey from the licensed district.
  5. The need to review Traffic Orders in the City to accommodate Pedicabs.

#### **4.4 Equalities Act 2010**

Pedicabs cannot meet our licensing criteria in respect of wheelchair access, and if licensed contributes to the overall number of Hackney Carriages licensed. If we

licensed a large number of them it will reduce the percentage of wheelchair accessible vehicles that we have in our fleet. Pedicabs would not be exempt vehicles under the Equalities Act 2010.

- 4.5 There is a small risk that many other operators may also look to set up a Pedicab business in Gloucester. There is, therefore, the chance that the authority could be inundated with applications for Pedicab Licences similar to the congestion seen in London. If the Council wanted to limit the number of licences issued to Pedicabs the limit would need to apply to the entire fleet of hackney carriage vehicles.
- 4.6 The cost of conducting research into this topic would need to be recovered through the hackney carriage licensing fees. We can impose the total costs of Pedicab work against the Pedicab Licences alone, but this would mean the licence fees for Pedicabs would be significantly high to begin with. Alternatively we could spread this cost over a number of years (say 2-3 years). There is however, a risk that if the Pedicab business is not successful there could be a cost to the Council that is not recovered.

## **5.0 Future Work**

- 5.1 If Committee are minded to consider the licensing of Pedicabs in Gloucester City and approve recommendation 2.1. Officers will submit a further report in due course outlining:
- Specific licence conditions for Pedicabs to be approved in Gloucester.
  - Proposed fares for Pedicabs be set, possibly at a single maximum fare per each half hour (or part thereof) for each vehicle hiring (not per passenger).
  - Proposed guidelines for consideration on approving applications for Pedicabs shall be the produced to be approved by the Licensing and Enforcement Committee.
  - Delegation of functions in determining Pedicab Licence applications and make arrangements for the constitution to be updated accordingly.
  - We will later request Member's consideration on whether there is any need to provide separate taxi rank provision for Pedicabs within the City.
  - Liaison with Gloucestershire Highways on any amendments needed to Traffic Orders in the City.
  - Details of any restrictions on routes of operation within the City.
  - If Members are minded to consider Licensing these vehicles because they encourage the use of environmentally friendly modes of transport, Members should also consider whether it is appropriate to consider licensing Horse and Carts in Gloucester City too.

## **6.0 Conclusions**

- 6.1 Gloucester could significantly benefit from a successful Pedicab service. They have the potential to be an asset to the city and an additional attraction to visitors to the city. They would provide an environmentally friendly mode of transport with no pollution. Pedicabs would provide a useful short distance service ferrying tourists, and indeed residents, between various tourist attractions, restaurants and hotels.



- 6.2 Officers are acutely aware of the problems that Pedicabs can potentially bring to the streets of Gloucester, whether it is blocking access to tourist attractions, holding up traffic, use of bus lanes or the lack of suitable ranks, but do not think the licensing of Pedicabs should be disregarded outright.
- 6.3 There are considerable hurdles to overcome if Pedicabs are to be licensed in Gloucester City. Perhaps the most significant being the Council's current policy on Hackney Carriage Vehicles and how these vehicles can meet our requirements and other legislative constraints. The Licensing and Enforcement Committee is being asked to decide whether they wish officers to devote resources to unravelling that policy and seeking to overcome these problems, or whether it should be recognised that licensing Pedicabs in Gloucester City is not appropriate at this time.

## **7.0 Financial Implications**

- 7.1 Financial Implications will vary dependant on the decision made by Member s of the Licensing and Enforcement Committee.
- 7.2 Taxi Licensing is funded from the fees obtained from licence holders. Legislation requires that the fees set are reasonable to recover the cost of providing that service. Any consultation work required would be met through the current licensing budgets. The cost of issuing any licences would be met through the allocated fees.
- 7.3 Fees would need to be set in line with the European Services Directive: Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on Councils setting and administering local licence fees within the service sector.
- 7.4 There could be legal costs and officer time arising out of any appeal against refusal to grant a hackney carriage licence or where there is an appeal against the vehicle conditions.

## **8.0 Legal Implications**

- 8.1 The Council has the discretion under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to license Pedicabs as hackney carriages. Furthermore the 1976 Act permits the Council to impose conditions on the grant of a hackney carriage vehicle licence. This power to license Pedicabs as hackney carriages was clarified in the Court of Appeal (R v Cambridge City Council ex parte Lane – 13 July 1998). As such a Pedicab falls within the definition of a hackney carriage vehicle under Section 38 of the Town Police Clauses Act 1847.
- 8.2 Full Legal implications are not available at this stage but would be provided if a decision has been made in principle to allocate resources into setting out a policy for licensing Pedicabs as Hackney Carriages in the City. Expert advice may be needed as the regulation of Pedicabs is unclear at this point of time.

**9.0 Risk Management Implications** *(Authors to complete) Identify all key risks (scoring 8 and above) for the recommendation including the impact and likelihood of the risk occurring and what measures will be taken to mitigate the risk.*

9.1 In compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

**10.0 People Impact Assessment (PIA):**

Please ensure you complete this section even if a PIA is not required.

Is a PIA required?	Yes	No	Explanation: At this stage there is insufficient information to determine whether a PIA is required
		X	
Has an initial PIA screening been completed?	Yes	No	Explanation: An Initial screening shall be carried out, once a policy is formulated.
		X	
Has a full PIA been completed?	Yes	No	Explanation: If a policy is later formulated, and initial screening determines a need for a full PIA, it will be conducted then
		X	
Is the PIA available?	Yes	No	Explanation:
		X	
Has the PIA identified any negative impacts on any protected characteristic or community cohesion?	Yes*	No	*Please ensure PIA is available

**Any Further Relevant Information:**

None

**11.0 Other Corporate Implications (this may include Community Safety, Environmental, Staffing, Trade Union)**

11.1 To increase the use of public and other environmentally friendly modes of transport.

11.2 To ensure that members of the public are transported safely in appropriately licensed vehicles driven by identified licensed drivers.

**Background Papers** : Hackney Carriage Rule Book (as amended June 2010)  
Hackney Carriage Byelaws

**Published Papers** : None

**Person to Contact** : Lisa Wilkes  
Tel: 396047  
E-mail: lisa.wilkes@gloucester.gov.uk



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## Gloucester City Council Hackney Carriage Rule book

### 1. Drivers Licences

#### New Applications

- 1.1 The applicant must have been the holder of a valid driving licence (NOT being a provisional licence) authorising him/her to drive a motor car in the UK for at least 12 months immediately prior to the date of application.
- 1.2 The applicant must be 18 years of age or over.
- 1.3 An application will not be granted unless the Licensing Authority is satisfied that the applicant is a fit and proper person to hold a Hackney Carriage licence.
- 1.4 To make an application, the applicant must:
  - a complete and submit to the Licensing Authority the appropriate application form
  - b pay the appropriate fee
  - c provide 2 identical passport size photos as follows:
    - 45 x 35mm in size
    - Be taken against a light background so that the applicants features are distinguishable and contrast against the background
    - Show the full face, uncovered, without sunglasses. Head coverings are NOT allowed unless due to religious beliefs
  - d produce for examination a current valid driving licence, authorising him/her to drive a motor vehicle in the UK, showing his/her current home address
  - e complete and submit a consent form for release of information held by DVLA to the Licensing Authority
  - f complete an enhanced criminal record disclosure application form and provide appropriate identity documentation. Please note that the applicant must visit the Licensing Authority in person when submitting their enhanced criminal record disclosure application.
  - g provide a satisfactory group 2 medical certificate that is no more than 3 months old on initial application.
  - h provide evidence of successful completion of a Gloucestershire County Council Road Safety Unit Driving Assessment that is no more than 3 months old on initial application.
  - i applicant must pass the Hackney Carriage Knowledge Test as set out by the Licensing Authority.
  - j the licence holder must complete an NVQ level 2 in road passenger transport within 12 months of the licence being granted or a renewal may not be issued.
- 1.5 Applicants are required to notify the Licensing Authority of any convictions, cautions, fixed penalties or pending court cases during the application process (i.e. the time between the application being submitted and the licence being granted)

**Additional Application Requirements for Foreign Nationals and Persons that have resided outside of the UK**

- 1.6 The Licensing Authority must be satisfied that the applicant is a fit and proper person. In order to determine this, an applicant who is a foreign national or has resided outside of the UK must also do the following:
- a complete an enhanced criminal record disclosure application form (as detailed in the new applicant section above). To complete this application, the applicant must provide all addresses for the past 5 years including any addresses that are outside of the UK. The enhanced criminal record disclosure will show any convictions that have been committed in the UK.
  - b in addition to the enhanced criminal record disclosure application, the applicant must provide the Licensing Authority with a criminal record check from all countries outside of the UK that they have resided in from the age of 18 or, if those countries do not provide such information, a certificate of good conduct from the Embassy or Diplomatic Mission from all countries that they have resided in from the age of 18. This certificate must be an original and if in a foreign language must be accompanied by an original certified translation from a sworn translator. Any costs incurred to obtain such certification must be paid for by the applicant.
  - c the Licensing Authority must be satisfied that the applicant holds an appropriate driving licence to drive in the UK for vocational purposes (gainful employment).
  - d an applicant must be eligible to work in the UK and, if appropriate, will need to provide evidence of this.

**Renewal Applications**

- 1.7 A renewal application must be completed prior to the expiry date of the Hackney Carriage driver's licence. There is no period of grace if a renewal is submitted after the expiry date. It is an offence to drive a Hackney Carriage without the appropriate Hackney Carriage driver's licence. Licences can be renewed up to 14 days before the current expiry date and the new licence will be post dated to the expiry date.
- 1.8 To make a renewal application, the applicant must:
- a complete and submit to the Licensing Authority the appropriate renewal application form.
  - b pay the appropriate fee.
  - c provide 2 identical passport size photos as follows:
    - 45 x 35mm in size.
    - Be taken against a light background so that the applicants features are distinguishable and contrast against the background.
    - Show the full face, uncovered, without sunglasses. Head coverings are NOT allowed unless due to religious beliefs.
  - d produce for examination a current valid driving licence, authorising him/her to drive a motor vehicle in the UK, showing his/her current home address.
  - e complete and submit a consent form for release of information held by DVLA to the Licensing Authority.

- f complete an enhanced criminal record disclosure application form and provide appropriate identity documentation where appropriate.
- g provide a satisfactory group 2 medical certificate where appropriate.

## **2. Vehicle Licences**

### **New Applications**

2.1 To make an application the applicant must:

- a complete and submit to the Licensing Authority the appropriate application form.
- b pay the appropriate fee.
- c produce proof of ownership of the vehicle, such as a registration certificate in the applicants name or, if not available, a bill of sale, an invoice or a credit agreement.
- d produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate should be presented before the cover note has expired. Failure to do so will leave the licence open to revocation.
- e produce a current MOT certificate and advisory notice if applicable (unless the vehicle is less than 1 year old).
- f produce a current Licensing Authority vehicle inspection certificate.

### **Renewal Applications**

2.2 A renewal application must be completed prior to the expiry date of the Hackney Carriage vehicle licence. There is no period of grace if a renewal is submitted after the expiry date. It is an offence to drive a Hackney Carriage without the appropriate Hackney Carriage vehicle licence. Licenses can be renewed up to 14 days before the current expiry and the new licence will be post dated to the expiry date.

2.3 To make a renewal application the applicant must:

- a complete and submit to the Licensing Authority the appropriate renewal application form.
- b pay the appropriate fee.
- c produce proof of ownership of the vehicle, such as a registration certificate in the applicants name or, if not available, a bill of sale, an invoice or a credit agreement.
- d produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate should be presented before the cover note has expired. Failure to do so will leave the licence open to revocation.
- e produce a current MOT certificate and advisory notice if applicable.
- f produce a current Licensing Authority vehicle inspection certificate.

### **Transfer of Ownership Applications**

2.4 To make a transfer application the applicant must:

- a complete and submit to the Licensing Authority the appropriate transfer application form.

- b pay the appropriate fee.
- c produce proof of ownership of the vehicle, such as a registration certificate in the applicants name or, if not available, a bill of sale, an invoice or a credit agreement and a letter from the previous owner stating that they are no longer using the vehicle as a Hackney Carriage vehicle.
- d produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate should be presented before the cover note has expired. Failure to do so will leave the licence open to revocation.
- e produce a current MOT certificate and advisory notice if applicable.
- f produce a current Licensing Authority vehicle inspection certificate.

### **Change of Vehicle Applications**

2.5 To make a change of vehicle application the applicant must:

- a complete and submit to the Licensing Authority the appropriate change of vehicle application form.
- b pay the appropriate fee.
- c produce proof of ownership of the vehicle, such as a registration certificate in the applicants name or, if not available, a bill of sale, an invoice or a credit agreement.
- d produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate should be presented before the cover note has expired. Failure to do so will leave the licence open to revocation.
- e produce a current MOT certificate and advisory notice if applicable (unless the vehicle is less than 1 year old).
- f produce a current Licensing Authority vehicle inspection certificate.
- g return any plates previously issued by the Licensing Authority.

### **Change of Registration of Vehicle Applications**

2.6 To make a change of registration application the applicant must:

- a complete and submit to the Licensing Authority the appropriate change of vehicle registration application form.
- b pay the appropriate fee.
- c produce confirmation of change of registration from DVLA.
- d produce an appropriate insurance certificate or cover note for Hackney Carriage purposes in accordance with the requirements of current legislation. If a cover note is offered, the full insurance certificate should be presented before the cover note has expired. Failure to do so will leave the licence open to revocation.
- e produce a current MOT certificate showing the new registration.
- f return any plates previously issued by the Licensing Authority.



### **3. General Conditions**

#### **Alteration of Existing Conditions**

- 3.1 a The Council may alter these conditions upon the giving of 28 days notice in writing to the licence holder that any of these conditions are deleted, any new ones inserted or existing conditions altered.
- b Any alteration of conditions under this condition will be consulted upon in the normal way and the licence holder will have the right to appeal to the Magistrates Court. The Licensing and Enforcement Committee will consider conditions, and any comments as a result of the consultation in the normal way.

#### **Disciplinary Action**

- 3.2 A breach of any of these general conditions may result in disciplinary action in accordance with the Council's approved enforcement policy and the penalty points totting up procedure.

### **DRIVERS**

#### **Duration of Licence**

- 3.3 Drivers licences shall remain in force for up to 3 years.

#### **Medical Criteria**

- 3.4 Once a driver has reached the age of 45, he/she must have a medical every 5 years on renewal of the drivers licence until he/she reaches the age of 65. From the age of 65 he/she will have a medical annually.
- 3.5 If a driver develops any health or medical issues that may affect his/her fitness as a driver during the period of their licence; they must notify the Licensing Authority immediately. Should this mean that a driver is required to cease driving for a period of time the Licensing Authority must receive written medical clearance from the drivers GP in order to resume driving.

#### **Requirement to Return Drivers Badge**

- 3.6 If a driver is no longer employed as a Hackney Carriage driver, he/she must return his/her licence, badge and any other related items to the Licensing Authority within 7 days.

#### **Notification of Changes**

- 3.7 If a driver moves house or changes his/her name, or if any other personal details included on the current licence changes, he/she must inform the Licensing Authority in writing within 7 days (see also 4.4).
- 3.8 If a driver leases a vehicle from another driver, he/she is obliged to inform the Licensing Authority, as to who owns the vehicle that they are driving and to produce a current insurance certificate naming both the owner and driver. The Licensing Authority must be notified in writing within 7 days if anything changes.

#### **Convictions, Cautions and Fixed Penalties**

- 3.9 a If a driver receives any cautions, convictions, fixed penalties or has a court case pending, he/she MUST inform the Licensing Authority in writing within 7 days of being formally notified of any such charge, summons or conviction, or in the case of a custodial sentence as soon as reasonably practical.

- b Notification of accidents (please see 4.5).

### **Code of Conduct**

3.10 A Hackney Carriage driver shall always act in accordance with the following:

- a wear the Hackney Carriage drivers badge provided by the Licensing Authority, in such a position and manner as to be plainly visible to the customer.
- b have a clean and tidy appearance.
- c behave in a polite and courteous manner in front of customers, and to each other.
- d take reasonable precautions to ensure the comfort and safety of passengers including when they are getting in and out of the vehicle.
- e attend punctually at the appointed time and place when hired.
- f if requested, offer reasonable assistance with the loading and unloading of bags and luggage.
- g offer reasonable assistance to passengers with a disability when they are getting in and out of the vehicle and, if appropriate, to and from their starting point or destination. If assistance is declined then continue to act in a polite and courteous manner.
- h unless otherwise directed by the hirer, shall proceed to the given destination by the shortest or most economical route .
- i not eat or drink in the vehicle whilst working as a Hackney Carriage driver.
- j comply with a customer's request not to play any radio or other sound emitting device in the vehicle, other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- k not play any radio or other sound producing device in the vehicle so loud that it causes a noise nuisance to anyone inside or outside of the vehicle.
- l not carry animals in the vehicle whilst working except for those carried in connection with the hirer of the vehicle. The driver has the discretion to decide whether he/she wants to carry animals belonging to a passenger in the vehicle, however, the animal may only be carried in the rear of the vehicle (see also 4.11).
- m it is an offence to drive a vehicle whilst using a mobile phone. All Hackney Carriage drivers who wish to operate a mobile phone must ensure that a suitable means of hands-free operation is installed in the vehicle.
- n remain vigilant and comply with local speed limits.
- o comply with Smokefree Legislation (please see 4.6 and 4.7).

### **Lost Property**

- 3.11 As soon as possible after a passenger has left the vehicle, the driver should check to make sure that no property has been left behind.
- 3.12 If a passenger does leave something in a vehicle and it is not claimed within 48 hours, the driver should take it to the Licensing Authority offices or to the local Police Station and get a receipt from the Duty Officer.

## **ISA**

- 3.13 The Independent Safeguarding Authority (ISA) has been created to help prevent unsuitable people from working with children and vulnerable adults. They will provide a scheme of registration by which only applicants that are judged not to pose a risk to children and vulnerable people can be ISA registered. Once the scheme has been fully rolled out, employers and service providers who work with children and vulnerable people will only be able to recruit people who are ISA registered. More information is available at the website [www.isa-gov.org.uk](http://www.isa-gov.org.uk)

## **VEHICLES**

### **General**

- 3.14 Where a new additional Hackney Carriage Vehicle Licence has been issued to allow a wheelchair accessible vehicle or people carrier to be operated, then that vehicle licence is issued conditional on:-
- a the vehicle always remaining as a wheelchair accessible vehicle or people carrier type; and
  - b the vehicle licence not being transferred to a non-wheelchair accessible vehicle or non-people carrier type.
- 3.15 The vehicle shall be of suitable size, shape and design to be safe and comfortable for passengers.
- 3.16 The vehicle must be right-hand drive and have a minimum of 4 doors.
- 3.17 The vehicle must be constructed and the doors open sufficiently wide as to allow easy access and egress from the vehicle and cause no inconvenience to passengers.
- 3.18 The licence holder shall ensure that all fittings and seats are such to be efficient, safe, tidy and clean.
- 3.19 The vehicle must comply with all traffic regulations and legislation in force.
- 3.20 No changes to the specification, design or appearance shall be made to the vehicle without the prior approval of the Licensing Officer.
- 3.21 Any vehicle that has been modified since manufacture or is imported must have the appropriate approval certificate e.g. a Single Vehicle Approval Certificate.
- 3.22 Tinted windows will only be accepted if they meet the manufacturers specification and comply with current legislation.

### **Vehicle Age and Testing**

- 3.23 Vehicles must comply with the following conditions in relation to age and length of service;
- a vehicles will not be accepted for licensing on the first occasion after 5 years from the date of the first registration regardless of whether it was previously licensed anywhere else in the UK, or re-licensed after 10 years from the date of the first registration.
  - b the vehicle shall be removed from service on the 10th anniversary from the date of the first registration, any outstanding licence shall be transferred onto a new vehicle free of charge for the remainder of that current licence.
  - c metropolitan type vehicles designed and constructed for the purpose of conveying members of the public are exempt from condition 3.23(a), subject to confirmation by the Licensing Officer that at all times their mechanical condition and standard of appearance is satisfactory.

- d all vehicles must be tested annually to the current Licensing Authority standards. Once the vehicle has reached the age of 8 years since manufacture, the vehicle shall be tested at 6 monthly intervals until it has reached its service limit of 10 years since manufacture.
- e if the condition of the vehicle deteriorates below the acceptable standard set in the Licensing Authority vehicle test at anytime during the working life of the vehicle, the Licensing Officer reserves the right to withdraw the licence.

## **Colour of Vehicle**

- 3.24 All Hackney Carriage vehicles shall be white in colour.

## **Seat Dimensions**

- 3.25 Each passenger seat shall be as follows:
- a Height – from the top of the seat cushion to the roof at the lowest point must not be less than 30 inches (762mm.)
  - b Knee space – the measurement between the front of each seat and the rear of the seat in front must not be less than 10 inches (254mm.)
  - c Width – the width of each passenger seat from side to side shall not be less than 16 inches (406mm). A seat designed for more than one passenger such as a rear seat must allow a width of 16 inches (406mm) for each passenger permitted.
  - d Depth – the measurement of a seat cushion between the front and back must not be less than 18 inches (457mm).
- 3.26 Occasional use fold down seats in purpose built wheelchair accessible vehicles are exempt from the seat dimension requirements listed above.

## **Fire Extinguisher and First Aid Kit**

- 3.27 The vehicle licence holder shall ensure that a fire extinguisher is fitted and complies to British Standard BSEN3 and be of at least 1kg powder capacity and in date. A First Aid Kit must also be provided in the vehicle and be maintained and readily available for use.

## **CCTV Systems**

- 3.28 CCTV systems may be installed into the vehicle with the approval of the Licensing Officer. All CCTV systems must comply with current legislation including data protection.

## **Luggage**

- 3.29 All luggage must be stored securely and, if appropriate, the vehicle shall be fitted with suitable equipment to prevent luggage from entering the passenger compartment.
- 3.30 Roof racks and roof boxes are not permitted on Hackney Carriages without the express prior approval of the Licensing Officer.
- 3.31 Trailers must be approved by the Licensing Officer.

## **Seatbelts**

- 3.32 Each passenger must have an appropriate, operational 3 point lap and shoulder seatbelt, see also 4.8 and 4.9 which refers to current seatbelt legislation.

## **Meters and Fares**

- 3.33 Taxi meters must be inspected annually as part of the Licensing Authority vehicle test, but the Licensing Officer reserves the right to test on demand.
- 3.34 All Hackney Carriage licence holders shall ensure that the taxi meter is set to the current Licensing Authority tariff and that the taxi meter is on display within the vehicle in a prominent position and clearly visible to the hirer of the vehicle.
- 3.35 Fares to be calculated and charged as follows:
- a for journeys that wholly take place within the controlled district, the meter shall be running at no higher than the prescribed rate and the fare charged shall be no more than the fare showing on the meter. The meter shall not be engaged until the hirer is in the vehicle.
  - b for journeys that either wholly or in part take place outside of the controlled district, the fare or method of calculation shall be agreed with the passenger prior to the commencement of the journey.

### **Tariff Card**

- 3.36 All Hackney Carriage licence holders shall ensure that the current Licensing Authority tariff card is on display within the vehicle in a prominent position and clearly visible to the hirer of the vehicle.

### **Vehicle Licence Plates**

- 3.37 Vehicle licences shall remain in force for a period of 1 year.
- 3.38 The exterior Hackney Carriage vehicle plate shall be securely fixed to the outside of the vehicle adjacent to the rear registration number plate and shall be displayed at all times that the licence is in force. The plate must be clearly visible at all times.
- 3.39 The interior Hackney Carriage vehicle plate shall be securely fixed inside the vehicle in a position where it is clearly visible to passengers travelling in the vehicle and shall be displayed at all times that the licence is in force.
- 3.40 The licence plates shall remain the property of the Licensing Authority and in the event that the licence is suspended, revoked or expired it shall be returned to the Licensing Authority within 7 days of notice being served on the licence holder by the Licensing Authority.

### **Roof Signs**

- 3.41 Hackney Carriages must be fitted with an approved standardised roof sign as directed by the Licensing Officer with the exception of metropolitan type vehicles.
- 3.42 The roof sign MUST be displayed on the top of the vehicle showing the word "taxi" whilst working in its controlled district. The sign must be attached to the meter and must be illuminated when the vehicle is available for hire.

### **Door Panels**

- 3.43 Hackney Carriages may display on both front doors, the approved recognition panel showing the words: City of Gloucester, City Crest, Licensed Vehicle Plate Number together with their own business name and telephone number if they wish.
- 3.44 Door panels must be a maximum size of 0.61m<sup>2</sup> (2ft<sup>2</sup>).

### **Advertising**

- 3.45 Hackney Carriages are permitted to have whole vehicle body advertising livery for a single product or service subject to the prior approval of the Licensing Officer.

### **Stretched Limousines**

- 3.46 Stretched limousines are not permitted to be licensed as Hackney Carriage vehicles.

## **4. Other Legislation**

### **Number of Passengers Permitted**

- 4.1 A Hackney Carriage shall not be permitted to carry more than 8 passengers.
- 4.2 A Hackney Carriage shall not carry any more passengers than the number stated on the vehicle licence plate.

### **Licensed Drivers**

- 4.3 A Hackney Carriage is licensed as a Hackney Carriage and as such can only be driven by a person holding a Hackney Carriage drivers licence issued by the same Licensing Authority throughout the duration of that Hackney Carriage vehicle licence. Even with all signage removed; the vehicle is still a licensed vehicle and must not be driven by any other person than a licensed Hackney Carriage driver.

### **Change of Details**

- 4.4 A holder of a Hackney Carriage vehicle licence must notify the Licensing Authority, in writing within 7 days, of any changes in the details of their Hackney Carriage licence including change of address.

### **Notification of Accidents**

- 4.5 A holder of a Hackney Carriage vehicle licence must notify the Licensing Authority as soon as reasonably practicable and no longer than 72 hours after any accident that causes damage materially affecting the safety, performance or appearance of a Hackney Carriage vehicle or the comfort and convenience of the passengers.

### **Smokefree Legislation**

- 4.6 Hackney Carriage vehicles are smokefree vehicles by law and neither the driver nor the passengers are able to smoke in the vehicle at any time. This applies to all occupants including the driver at all times including for private use.
- 4.7 A No Smoking sign must be displayed in each compartment of the vehicle that shows the international "No Smoking" sign (a minimum of 70mm in diameter).

### **Seatbelt Legislation**

- 4.8 The driver of a Hackney Carriage is responsible for ensuring that ALL passengers under the age of 14 are wearing the correct seatbelts or restraints.
- 4.9 A Hackney Carriage driver is only exempt from wearing a seatbelt whilst the Hackney Carriage is:
- a being used for seeking hire within the Licensing district.
  - b answering a call for hire.
  - c carrying fare paying passengers for hire.

### **Sale of Alcohol**

- 4.10 The sale of alcohol is a licensable activity under the Licensing Act 2003. The sale of alcohol is prohibited in a moving vehicle. If a sale of alcohol is made as part of a booking arrangement, the sale must be authorised by either a premises licence or a temporary event notice in accordance with the Licensing Act 2003.

## **Guide Dogs**

- 4.11 A Hackney Carriage driver must permit, without additional payment, guide, hearing and certain prescribed assistance dogs accompanying disabled people to be carried in the licensed vehicle unless an exemption certificate has been issued to that driver on medical grounds by the Licensing Authority.

## **5. Glossary of Terms**

### **Controlled District**

The area covered by the Licensing Authority.

### **County Council Drivers Assessment**

An assessment of an applicant's driving ability, undertaken by Gloucestershire County Council on behalf of the Licensing Authority to demonstrate the suitability or otherwise of an applicant to be granted a Hackney Carriage drivers licence.

### **DfT**

The Department for Transport determines the overall transport strategy for the UK.

### **DVLA**

The Driver and Vehicle Licensing Agency is an executive agency of the Department for Transport (DfT). The DVLA's primary aims are to facilitate road safety and general law enforcement by maintaining registers of drivers and vehicles, and to collect vehicle excise duty (car tax).

### **Enhanced Criminal Record Disclosure**

The Criminal Record Bureau (CRB) is an executive agency of the Home Office and provides wide access to criminal record information through its disclosure service. The enhanced criminal record disclosure contains details of both spent and unspent convictions and any cautions from England, Wales and Northern Ireland, held on central records or it will indicate that there are no such matters held on central records.

In addition the enhanced criminal record disclosure may also show any information held on local Police records considered by the Chief Constable or Chief Officer to be relevant to the position being sought and which can be disclosed without harming the interests of the prevention or detection of crime. It is entirely up to the Chief Constable or Chief Officer to decide what information is disclosed, if any, in these circumstances.

In respect of an enhanced criminal record disclosure, the Chief Constable or Chief Officer may also disclose information to the counter signatory only, that is information which will not form part of the actual disclosure. Such information will be sent separately to the counter signatory and will be withheld from the subject of the disclosure (that is the individual applicant) in the interests of the prevention or detection of crime.

### **Hackney Carriage/Taxi**

A Hackney Carriage is also known as a Taxi. It is defined in section 38 of the Town Police Clauses Act 1847 and is a wheeled vehicle constructed or adapted to seat fewer than 8 passengers that can carry

passengers for hire and reward and may stand on a taxi rank or ply for hire in any street within the licensed district.

## **Taxi Rank/Stand**

An approved rank, also known as a stand, within the controlled district where taxis can await the arrival of a hirer.

## **ISA**

The Independent Safeguarding Authority (ISA) has been created to help prevent unsuitable people from working with children and vulnerable adults. They will provide a scheme of registration by which only applicants that are judged not to pose a risk to children and vulnerable people can be ISA registered. Once the scheme has been fully rolled out, employers and service providers who work with children and vulnerable people will only be able to recruit people who are ISA registered. More information is available at the website. [www.isa-gov.org.uk](http://www.isa-gov.org.uk)

## **Knowledge Test**

An examination undertaken by applicants for a Hackney Carriage drivers licence to demonstrate the knowledge an applicant has regarding:

The rules and regulations which a Hackney Carriage driver MUST adhere to and the applicants good topographical knowledge in relation to the area in which they are applying to be licensed in.

The knowledge test must be passed by Hackney Carriage driver applicants prior to a drivers licence being granted.

## **Licensing Authority**

The authority responsible for issuing licenses in relation to Hackney Carriage drivers and vehicles under the Town Police Clauses Act 1847 and Part II of The Local Government (Miscellaneous Provisions) Act 1976.

## **Licensing Authority Vehicle Test Certificate**

Vehicle tests undertaken by garages within the controlled district that have been approved by the Licensing Authority. In addition to safety checks this includes condition of the vehicle inside and outside and that the vehicle meets the Licensing Authority conditions e.g. roof signs, plates etc.

## **Licensing Officer**

An Officer of the Council authorised to act in accordance with Hackney Carriage legislation.

## **London Type Hackney Carriage**

A vehicle that is recognisable by the public as being a purpose built Hackney Carriage such as used by the London black cabs. Examples include the LTI TX series and the Fairways FX series.

## **Medical (Group 2)**

A medical examination undertaken to group 2 standards set out by DVLA. This is the same as the standard required from drivers of public service vehicles and heavy goods vehicles.

## **Premises Licence**

A licence issued by a Licensing Authority under the Licensing Act 2003 which permits licensable activities which may include sale by retail of alcohol.



## **Single Vehicle Approval Certificate**

The Single Vehicle Approval Certificate (SVA) scheme is a pre-registration inspection for cars and light goods vehicles that have not been type approved to British or European standards. The main purpose of the scheme is to ensure that these vehicles have been designed and constructed to modern safety and environmental standards before they can be used on public roads. The approval is issued by selected VOSA testing stations and may also be issued to vehicles that have been modified or converted.

## **Temporary Event Notice**

A notice submitted to the Licensing Authority under the Licensing Act 2003 in relation to licensable activities that may include the sale by retail of alcohol. There are restrictions on temporary event notices including a limit on the number that can be issued per year.

## **VOSA**

The Vehicle and Operator Services Agency (VOSA) provides a range of licensing, testing and enforcement services with the aim of improving the roadworthiness standards of vehicles ensuring the compliance of operators and drivers, and supporting the independent Traffic Commissioners.

## **FACILITIES FOR THE DISABLED**

- (1) Approved anchorages must be provided for the wheelchair and chairbound disabled person. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other. Anchorages must also be provided for the safe stowage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- (2) The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm. The minimum angle of the door when opened must be 90 degrees.
- (3) The clear height of the doorway must be not less than 1.2 metres.
- (4) Grab handles must be placed at door entrances to assist the elderly and disabled.
- (5) The top of the tread for any entrance must be at floor level of the passenger compartment. The outer edge of the floor at each entrance must be fitted with non-slip treads.
- (6) The vertical distance between the highest part of the floor and the roof in the passenger compartment must be not less than 1.3 metres.
- (7) Where seats are placed facing each other, there must be a minimum space of 42.5cm between any part of the front of a seat and any part of any other seat which faces it, provided adequate foot room is maintained at floor level. Where all seats are placed facing to the front of the vehicle, there must be clear space of at least 66cm in front of every part of each seat squab.
- (8) A ramp or ramps for the loading of a wheelchair and occupant must be available at all times. An adequate locking device must be fitted to ensure that the ramp/ramps do not slip or tilt when in use. Provision must be made for the ramps to be stowed safely when not in use.

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**CITY OF GLOUCESTER**



**BYELAWS**

**WITH RESPECT TO**

**HACKNEY CARRIAGES**

**AND**

**MOTOR VEHICLES LET FOR HIRE**

## BYELAWS

Made under section 68 of the Town Police Clauses Act, 1847, section 171 of the Public Health Act, 1875, and section 15 of the Gloucester Corporation Act, 1970, by the Mayor Aldermen and Citizens of the City of Gloucester, with respect to hackney carriages and motor vehicles let for hire in the City of Gloucester

### Interpretation

1. Throughout these byelaws:- "the Council" means the Mayor Aldermen and Citizens of the City of Gloucester acting by the Council and "the district" means the City of Gloucester.

"motor vehicle let for hire" has the same meaning as in section 15 of the Gloucester Corporation Act, 1970.

### Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence shall be displayed

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates provided by the Council affixed thereto,
- (b) A proprietor or driver of a hackney carriage shall:-
- i. not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
  - ii. not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

### Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:-
- (a) provide sufficient means by which any person in the carriage may communicate with the driver;
  - (b) cause the roof or covering to be kept water-tight;
  - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
  - (d) cause the seats to be properly cushioned or covered;
  - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
  - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;

- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
- (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver;
- (j) provide and maintain an electric light in the interior of such carriage for the use of any person therein;
- (k) carry a spare wheel and tyre and suitable tools for the replacement of damaged or punctured tyres;
- (l) ensure that no fittings which have not been approved by or on behalf of the Council shall be attached to or carried either upon or inside or outside the carriage.

4. The proprietor of a hackney carriage shall cause any taximeter with which the carriage is provided to be so constructed, attached, and maintained as to comply with the following requirements, that is to say:-

- (a) the taximeter shall be fitted with a key, flag, or other device the turning of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance in pursuance of the byelaw in that behalf;
- (d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage; and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring;
- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges**

5. The driver of a hackney carriage provided with a taximeter shall:-

- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;

- (b) as soon as the carriage is hired by distance, and before beginning the journey, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;
  - (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness as defined for the purposes of the Road Transport Lighting Act, 1957, and also at any other time at the request of the hirer;
6. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
- (a) proceed with reasonable speed to one of the stands fixed by the byelaw on that behalf;
  - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction;
  - (d) from time to time when any other carriage immediately in front is driven off or moved forward cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
9. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
10. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
11. The driver of a hackney carriage when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.

13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible. Such driver shall not lend the badge to any other person or cause or allow any other person to wear it.
14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:-
  - (a) convey a reasonable quantity of luggage;
  - (b) afford reasonable assistance in loading and unloading;
  - (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.
15. A driver shall not carry luggage on the roof of any carriage except in a luggage rack approved by or on behalf of the Council.
16. A proprietor or driver of a hackney carriage shall not cause or suffer any advertisements ("other than that approved by or on behalf of the Council") to be placed on any part of such carriage.

**Provisions fixing the stands of hackney carriages**

17. Each of the several places specified in the following list shall be a stand for such number of hackney carriages as is specified in the list:-

<b>Street</b>	<b>Description of Stand</b>	<b>Number of Taxi-cabs accommodated</b>
Grosvenor House service road adjoining Station Road	Opposite entrance to Bus Station	8
The Oxebode	Outside G.P.O.	10
Quay Street (23:30 - 2:30 hrs)	Outside nightclub in Quay Street	7
British Rail Station Forecourt	PRIVATE LAND - PLYING FOR HIRE FROM RANK RESTRICTED TO PERMIT HOLDERS ONLY	

**For fixing the rates or fares to be paid for such hackney carriages within the district and for securing the due publication of such fares**

18. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the following table, the rate or fare being calculated by distance unless the hirer express at the commencement of the hiring his desire to engage by time.

Provided always that where a hackney carriage furnished with a taximeter shall be hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the following table which it may not be possible to record on the face of the taximeter.

**Fares for Distance - Set annually.**

19. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the byelaw in that behalf to be exhibited inside the carriage, in clearly distinguishable letters and figures.
- (b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and redelivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof**

20. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
21. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found or handed to him:-
- (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge of the office on his giving a receipt for it,
- (b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever is the greater) but not more than five pounds.

**Penalties**

22. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding twenty pounds and in the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefor.



**PROVISIONS OF THE TOWN POLICE CLAUSES ACT, 1847  
APPLICABLE TO MOTOR VEHICLES LET FOR HIRE**

23. The following provisions of the Town Police Clauses Act, 1847, shall apply to motor vehicles let for hire as if they were in terms applicable thereto, that is to say:-

- Section 37 (Commissioners may license hackney carriages)
- Section 40 (Persons applying for licence to sign a requisition)
- Section 41 (What shall be specified in the licence)
- Section 42 (Licence to be registered)
- Section 43 (Licence to be in force for one year only)
- Section 44 (Notice to be given by proprietors of any change of abode)
- Section 45 (Penalty for plying for hire without a licence)
- Section 46 (Drivers not to act without first obtaining a licence)
- Section 47 (Penalty for drivers acting without licence or proprietors employing unlicensed drivers)
- Section 48 (Proprietor to retain licence of driver while in his employ and to produce it before justices on complaint)
- Section 49 (Proprietor to return licence to driver when leaving his service unless guilty of misconduct in which case proprietor to summon driver)
- Section 50 (Licences of proprietors or drivers may be suspended on a second conviction)
- Section 51 (Number of persons to be carried in a hackney carriage to be painted thereon)
- Section 52 (Penalty for neglect to exhibit the number, or for refusal to carry the prescribed number)
- Section 59 (Penalty for permitting persons to ride without consent of hirer) and
- Section 67 (Penalty and compensation for damaging carriage).

**PROVISIONS OF THE HACKNEY CARRIAGE BYELAWS  
APPLICABLE TO MOTOR VEHICLES LET FOR HIRE**

24. The following provisions of the hackney carriage byelaws shall apply to motor vehicles let for hire as if they were in terms applicable thereto, that is to say:-

- Byelaw 2 (Regulating the display of the number of each carriage corresponding with the number of its licence)
- Byelaw 3 (Regulating how carriages are to be furnished or provided)

- Byelaw 9 (Driver shall behave in a civil and orderly manner and ensure the safety of his passengers)
- Byelaw 10 (Driver to attend punctually at appointed place)
- Byelaw 11 (Driver to proceed to destination by shortest possible route)
- Byelaw 12 (Number of persons carried must not exceed the figure specified on the plate)
- Byelaw 13 (Driver to wear badge if provided by Council)
- Byelaw 14 (Driver to carry and assist with luggage)
- Byelaw 15 (Driver not to carry luggage on roof of carriage except in approved luggage rack)
- Byelaw 16 (Display of advertisements)
- Byelaw 20 (Carriage to be searched after each hiring for property accidentally left therein)
- Byelaw 21 (Disposal of property accidentally left in carriage)
- Byelaw 22 (Penalties for offences against these Byelaws)

**Repeal of Byelaws**

- 25. The byelaws relating to hackney carriages referred to in the Schedule hereto are hereby repealed.

THE SCHEDULE

<i>Date of Byelaws</i>	<i>By whom made</i>	<i>Date of confirmation</i>	<i>By whom confirmed</i>
29 October 1947	The Council	11 December 1947	One of the Principal Secretaries of State of His late Majesty King George VI
3 October 1951	" "	11 January 1952	" " " "
12 May 1956	" "	12 November 1956	One of Her Majesty's Principal Secretaries of State
13 December 1958	" "	9 February 1959	" " " "
24 April 1959	" "	26 June 1959	" " " "
17 April 1962	" "	5 June 1962	" " " "
5 May 1965	" "	23 August 1965	" " " "
14 May 1970	" "	28 August 1970	" " " "
23 February 1971	" "	17 April 1971	" " " "

The foregoing Byelaws were made and adopted at a meeting of the Council on the 13th day of October, 1971.

Dated this 13th day of December 1971.

IN WITNESS whereof the Common Seal of the MAYOR ALDERMEN AND CITIZENS OF THE CITY OF GLOUCESTER was hereunto affixed in the presence of:-

L.S.  
Seal No. 25755

H. WORRALL  
Mayor

D. HALL  
Town Clerk

**THE GLOUCESTER CORPORATION ACT, 1970**

Provisions  
as to motor  
vehicles let  
for hire.  
1847 c.89  
1875 c.55

15. (1) The provisions of the Town Police Clauses Act 1847 and of section 171 of the Public Health Act 1875 shall extend to empower the Corporation to make byelaws for declaring that to the extent determined by the byelaws those provisions and the byelaws of the Corporation in force with respect to hackney carriages shall apply to every motor vehicle (notwithstanding that it is not a hackney carriage) which is offered or let for hire with the services of a driver and to such drivers:

Provided that this section shall not apply to -

1960 c.16

- (a) a public service vehicle as defined in section 117 of the Road Traffic Act 1960; or
- (b) a motor vehicle kept and used ordinarily for the purpose of being let on hire by the day or for longer periods of hire; or
- (c) a motor vehicle kept by a person in connection with any business carried on by him as a funeral director or as owner of funeral vehicles available for hire and used wholly or mainly in connection with that business;
- (d) any vehicle belonging to or used by the British Railways Board for the purpose of carrying passengers and their luggage to or from any of their railway stations or railway premises;

or to the drivers or conductors of such vehicles;

Provided also that nothing in this section shall empower the Corporation to fix the site of the stand or starting place of any motor vehicle standing or plying for hire in any railway station or railway premises or in any yard belonging to the British Railways Board except with the consent of the British Railways Board.

1958 c.xxxv

- (2) Section 103 of the Gloucester Corporation Act 1958 is hereby repealed.

L.S.

The Secretary of State this day confirmed the foregoing byelaws and fixed the date on which they are to come into operation as the first day of April 1972

K. P. WITNEY

*An Assistant Under Secretary of State*

Home Office  
Whitehall

22nd February 1972

# Gloucester City Council

<b>Committee</b>	: <b>Licensing and Enforcement</b>
<b>Date</b>	: <b>18<sup>th</sup> October 2011</b>
<b>Subject</b>	: <b>Members Update and 3 Year Work Plan for Licensing and Enforcement Committee</b>
<b>Decision Type</b>	: <b>For Information</b>
<b>Ward</b>	: <b>All</b>
<b>Report By</b>	: <b>Gill Ragon, Group Manager of Environmental Health and Regulatory Services</b>
<b>No. Of Appendices</b>	: <b>None</b>
<b>Reference No.</b>	: <b>ES21123</b>

## 1.0 Purpose of Report

- 1.1 To outline to Members, details of key Licensing Activities carried out in the last quarter, including feedback on Appeal Cases heard by the Magistrates Court against decisions made by this Committee. Furthermore, to outline a 3 year work plan for Licensing and Enforcement Committee quarterly meetings so that Members can see which Policy matters are due for consideration over the next 3 years.

## 2.0 Recommendations

- 2.1 Members note the contents of this report.

## 3.0 Updates on Licensing Activities in the last Quarter

### 3.1 Taxi Marshalling Scheme

On 29<sup>th</sup> July a new security firm took over the taxi marshalling scheme in Eastgate Street. This contract has been renewed at a much lower cost and offers additional security support through the use of head cameras, close liaison with the local SIA doormen, use of pub watch radio and fast response back up should problems arise. The funding was secured through the Safer Gloucester Partnership and will cover the scheme for 12 months. Just recently (during September) Liquid Nightclub have liaised with the Police and agreed to provide Taxi Marshalls on a Wednesday night 23:30 to 04:00. Liquid will be paying for this and using Cuff Security, these are the same Marshalls we use. This will not impact on the contribution that they are also providing towards the Marshalls on Saturday and Sunday, it just means that there will be security on all 3 nights.

### 3.2 Road Closure in Eastgate Street

From 26<sup>th</sup> August 2011, Gloucestershire Highways in liaison with Gloucestershire Constabulary have partially closed Eastgate Street from one side, making the road a one-way system on Friday and Saturday nights. The partial closure was implemented to try and reduce the number of vehicles in Eastgate Street on a Friday and Saturday Night, preventing vehicles from obstructing the street by conducting three-point turns in the road etc and also to make it safer for pedestrians and easier for emergency services to gain access when needed.

- 3.3 The Taxi rank has remained operational and the Marshalls have welcomed this change. Vehicles now have to enter the restricted section from the town centre side and exit out onto Barton Gates. The side roads have not been affected by the changes, bollards are erected in Eastgate Street itself (adjacent to Nettleton Road and GL1).
- 3.4 We continue to receive feedback from the Trade and the Police about this closure, both parties have indicated that they are happy with this scheme. The Police in particular have seen improvements in the accessing this Street for emergencies during the weekend nights.

#### **4.0 Appeal Court cases**

- 4.1 On 18<sup>th</sup> July an Appeal was heard at Cheltenham Magistrates Court to consider the decision made by Gloucester City Council's Licensing and Enforcement Committee regarding a driver that was convicted of plying for hire on 29<sup>th</sup> October 2010. The Committee considered this driver's conviction on 31<sup>st</sup> January 2011 and resolved to suspend his Private Hire Driver's licence until 13<sup>th</sup> August 2011 for two reasons: proven breaking of legislation as detailed in the report and breach of trust by placing passengers in a position whereby they would not be insured. Cheltenham Magistrates allowed the appeal determining no action be taken on the Appellant. In addition the Court awarded that the Council pay up to £250 costs to the driver on the grounds that they made an unreasonable decision because they had not considered his 14 years of good record of behaviour.
- 4.2 On 5<sup>th</sup> August, Gloucester Magistrates Court considered an appeal from a Private Hire Driver against a decision made by the Licensing and Enforcement Committee to revoke his licence on the grounds that he was not a fit and proper person following a conviction for common assault. The Court decided that the driver was considered to be a fit and proper person and that the Council should reinstate his licence. This was principally because although he had been convicted of assault occasioning ABH his sentence was at the very lowest of the scale, his wife gave credible oral evidence on oath, he provided 3 character references which proved to be crucial documentation to demonstrate what the driver had done to improve his ability to cope and improve his anger towards women. This information was not made fully available at the Committee hearing, so the Council had not made an unreasonable decision at the time. There was no award of costs to either party.
- 4.3 On 12<sup>th</sup> September an appeal was heard at Gloucester Magistrates Court to consider a decision made by the Licensing and Enforcement Committee to suspend another Private Hire Driver's Licence after he was convicted of plying for hire on 29<sup>th</sup> October. The Court upheld the decision of the Council to suspend his Private hire Driver's Licence for the remainder of the period. There was no award of costs to the Council.
- 4.4 There is still an appeal outstanding on the All Nations Community Centre following a review of their Club Premises Certificate in July 2010. We hope to be able to brief members on the outcome in December 2011.

## 5.0 Future Work

5.1 The table below outlines our proposed work plan for Full Licensing and Enforcement Committee meetings over the next 3 years. As the years goes on, additional matters may need to be brought to Members attention or further requests may be presented for decision. However, the items below illustrate expected matters that are scheduled for consideration Committee dates are in **bold** and shaded grey.

<b>LICENSING AND ENFORCEMENT COMMITTEE</b>	<b>POLICY ITEM</b>
<b>18<sup>th</sup> October 2011</b>	<b>Pedicab Licensing Report Training on Taxi and Private Hire Disciplinary Hearings</b>
<b>13<sup>th</sup> December 2011</b>	<b>Advertising Boards and Tables and Chairs Policy Review of Private Hire and Hackney Carriage Policy (consultation)</b>
<i>January 2012</i>	<i>Private Hire and Hackney Carriage Policy 12 weeks consultation. Advertising Boards Policy and Tables and Chairs Policy under 6 weeks consultation.</i>
<i>February 2012</i>	<i>Inform Chair of L and E Committee of proposals to Taxi fees, Consult on fees over 28 days</i>
<b>March 2012</b>	<b>Private Hire and Hackney Carriage Policy for approval. Advertising Boards and Tables and Chairs Policy for approval (to take effect April 2012). Update report on Taxi fee status OR Report to consider objection on fees (fees to take effect 1<sup>st</sup> April 2012) Update on proposed Taxi Tariff (to take effect May 1<sup>st</sup> 2012)</b>
<i>April 2012</i>	<i>Consult on Taxi Meter Tariff over 14 days</i>
<i>May 2012</i>	<i>Members Training</i>
<b>June 2012</b>	<b>Update Committee on Taxi Meter Tariff set Review of Gambling Act Statement of principles</b>
<i>July &amp; August 2012</i>	<i>Consult on Gambling Act Statement of Principles over 12 weeks</i>
<b>September 2012</b>	<b>Gambling Act Statement of principles (to take effect Dec 2012)</b>
<b>December 2012</b>	
<i>February 2013</i>	<i>Inform Chair of L and E Committee of proposals to Taxi fees, Consult on fees over 28 days</i>
<b>March 2013</b>	<b>Update report on Taxi fee status OR Report to consider objection on fees (fees to take effect 1<sup>st</sup> April 2013) Update on proposed Taxi Tariff (to take effect May 1<sup>st</sup> 2013)</b>
<i>April 2013</i>	<i>Consult on Taxi Meter Tariff over 14 days</i>
<i>May 2012</i>	<i>Members Training</i>
<b>June 2013</b>	<b>Update Committee on Taxi Meter Tariff set Review of Licensing Act Statement of principles</b>
<i>July 2013</i>	<i>Consult on Licensing Act 2003 Statement of Principles over 12 weeks</i>
<b>September 2013</b>	<b>Licensing Act 2003 Statement of principles (to take effect January 2014)</b>
<b>December 2013</b>	

February 2014	Inform Chair of L and E Committee of proposals to Taxi fees, Consult on fees over 28 days
March 2014	<b>Sex Establishment Policy Review</b> <b>Update report on Taxi fee status OR Report to consider objection on fees (fees to take effect 1<sup>st</sup> April 2014)</b> <b>Update on proposed Taxi Tariff (to take effect May 1<sup>st</sup> 2014)</b>
April 2014	Consult on Taxi Meter Tariff over 14 days
May 2014	Members Training
June 2014	<b>Update Committee on Taxi Meter Tariff set</b> <b>Sex Establishment Policy Review (to take effect July 2014)</b>
September 2014	<b>Review of Advertising Board and Tables and Chairs Policy</b>
December 2014	<b>Review of Private Hire and Hackney Carriage Policy</b>

## 6.0 Conclusions

6.1 At each quarterly Licensing and Enforcement Committee meeting, we will update Members on any activities carried out in the last quarter, this will include a summary of what has happened in the team, including number of new Licences, any enforcement work carried out and details of any appeals or prosecutions held, the outcomes of those hearings and any further appeals pending.

## 7.0 Financial Implications

7.1 There are no financial implications attached to the recommendations in this report.

## 8.0 Legal Implications

8.1 There are none at this time.

**9.0 Risk Management Implications** *Identify all key risks (scoring 8 and above) for the recommendation including the impact and likelihood of the risk occurring and what measures will be taken to mitigate the risk.*

9.1 In Compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

## 10.0 People Impact Assessment (PIA):

Please ensure you complete this section even if a PIA is not required.

Is a PIA required?	Yes	No	Explanation: Not for this report, a separate PIA will be carried out on each policy as it is brought to Committee
		x	
Has an initial PIA screening been completed?	Yes	No	Explanation: as above
		x	
Has a full PIA been completed?	Yes	No	Explanation: as above
		x	



Is the PIA available?	Yes	No	Explanation:
		x	
Has the PIA identified any negative impacts on any protected characteristic or community cohesion?	Yes*	No	*Please ensure PIA is available
		x	

**Any Further Relevant Information:**

None

**11.0 Other Corporate Implications (this may include Community Safety, Environmental, Staffing, Trade Union)**

None

**Background Papers** : None

**Published Papers** : None

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