

# 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
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Has an initial PIA screening been completed?	Yes	No	Explanation: An Initial screening shall be carried out, once a policy is formulated.
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
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
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Is the PIA available?	Yes	No	Explanation:
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Has the PIA identified any negative impacts on any protected characteristic or community cohesion?	Yes*	No	*Please ensure PIA is available
	<input type="checkbox"/>	<input type="checkbox"/>	

**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

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