

Gloucester City Council

Meeting:	Licensing and Enforcement Committee	Date:	18th June 2013
Subject:	Revised Policy and Conditions for Hackney Carriage and Private Hire Licensing		
Report Of:	Corporate Director for Services and Neighbourhoods		
Wards Affected:	All		
Key Decision:	Yes	Budget/Policy Framework:	Yes
Contact Officer:	Lisa Jones, Food and Licensing Service Manager		
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Appendices:	A: The Hackney Carriage Rule Book		
	B: The Private Hire Driver and Vehicle Rule Book		
	C: The Private Hire Operator Rule Book		
	D: The Hackney Carriage and Private Hire Regulatory Guidelines		
	E: Representations from Mr Bartholomew		
	F: Representation from Mr Ahmed		
	G: Comparison table of County provision of licensed Wheelchair Accessible Vehicles		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To present the result of the consultation feedback on the draft revised conditions for Hackney Carriage and Private Hire Licensing.
- 1.2 To consider the consultation feedback and agree a final version of the Hackney Carriage and Private Hire Licensing for adoption by the Licensing and Enforcement Committee.

2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RESOLVE** that

- (1) The revised Policy for Hackney Carriage and Private Hire Licensing and consultation feedback be noted by Members and adopted by the Licensing and Enforcement Committee to take immediate effect.
- (2) That the proposed amendments as detailed in paragraphs 3.10 (1), 3.12 (10-19) and 3.13 (1 – 5) and 3.14 are noted and approved for inclusion in the final version.

3.0 Background and Key Issues

- 3.1 Councils have the power to attach conditions to Hackney Carriage and Private Hire licences through the relevant legislation namely, The Town Police Clauses Act 1847 and The Local Government (Miscellaneous Provisions) Act 1976. There is no statutory requirement for a local authority to set hackney carriage and private hire policies, however, it is an integral part of the decision-making process, informing and guiding the decision-makers, and providing a valuable aid to consistent decision making.
- 3.2 General conditions have been applied to Hackney Carriage licences since 1972 when the Byelaws in respect of Hackney Carriages were adopted. Similar conditions have been applied to Private Hire licences since they were first issued in 1980.
- 3.3 The current conditions booklet was approved in January 2010 and has been in use since that date. These conditions have not been substantially reviewed since this time.
- 3.4 Members are advised that the revised conditions have been written taking into consideration Guidance from the Department for Transport (DfT) – Taxi and Private Hire Licensing: Best Practice Guidance and feedback from representatives of the Hackney Carriage and Private Hire trade.
- 3.5 The revised draft conditions are attached as Appendix A - D of this report. The four documents that make up our full draft revised policy and conditions for Hackney Carriage and Private Hire Licensing include:
 - A: The Hackney Carriage Rule Book (HC Rule Book)
 - B: The Private Hire Driver and Vehicle Rule Book (PHD&V Rule Book)
 - C: The Private Hire Operator Rule Book (PHO Rule Book)
 - D: The Hackney Carriage and Private Hire Regulatory Guidelines
- 3.6 All the proposed amendments and revisions to the rule books (Appendices A - C) are shaded in grey. At the Licensing and Enforcement Committee held on the 13th March 2013, Members also agreed that the following amendments should be included in the final consultation document:

1. Change paragraph 1.7 to say “drivers will be sent a reminder around ‘six weeks’ before their licence is due to expire”, instead of one month as this was considered too short.
 2. Under paragraph 4.4 of the Private Hire Driver and Vehicle Rule Book, include ‘to do so would invalidate the insurance’ in reference to taking a booking without pre-booking.
 3. That the change of wording included under paragraphs 3.54 - 3.56 regarding door panels be accepted for consultation.
 4. Amend ‘faces’ under 3.59 (s) of the Hackney Carriage Rule Book to ‘faeces’.
- 3.7 The revised Hackney Carriage and Private Hire Policy was consulted upon from the 25th March 2013 until 13th May 2013.
- 3.8 All Hackney Carriage and Private Hire drivers and Operators were written to and invited to make a written comment. In addition, the consultation was advertised on the Council’s website with provision to respond and a public notice was also posted at the Council Offices.
- 3.9 Two responses were received from Members of the Hackney Carriage and Private Hire Trade. Copies of these responses can be found in Appendices E and F.
- 3.10 The comments received from Mr Bartholomew raises two issues for Members to consider:
- (1) A request for door panels on private hire vehicles to be ‘optional’ rather than mandatory, so that they look less like a taxi to the public.
If Members are minded to allow door panels to be optional, this will allow greater flexibility, but will not ensure a consistent appearance amongst the private hire fleet. The mandatory wording guidelines can remain in the rule books where door panels are used for all cases.
 - (2) A request to allow vehicles to run for more than ten years, as long as the interior and exterior are in very good condition and in excellent mechanical condition, with reasonable mileage. This is matter is discussed further in 3.13 (2) below for Member to consider.
- 3.11 The comments received from Mr Ahmed raise a number of points, which the Licensing Service Manager has subsequently discussed in great detail with him. A number of his points have been agreed in principle and some other issues require further consideration by Members, all these actions are highlighted in grey in Appendix F. Other points have been clarified through discussion and Officers are not proposing any further changes. Officer responses are noted in *italics* adjacent to the representations within appendix F for Members to note if no change is required.
- 3.12 The matters agreed in principle are noted below and Members are recommended to accept each change within paragraphs 1-19:

- (1) **Paragraph 3:** A description of Hybrid needs to be added by inserting 'Hybrid Offences are borderline of being considered major offences depending on how many points are obtained' into Paragraph 3.3(b)(i) of the regulatory guidelines (Appendix D).
- (2) **Paragraph 4.** Remove the typing error on Paragraph 4.1 of the regulatory guidelines (Appendix D) because this final sentence is repeated.
- (3) **Paragraph 9.** Provide the following as a clear definition of an adequate first aid kit. It is recommended that the following is inserted into paragraph 3.38 of HC rule book and paragraph 3.36 of the PHD&V rule book:
In line with HSE for Travelling workers your first aid box should contain the following minimum contents:
 - 6 individually wrapped sterile plasters
 - 2 individually wrapped triangular bandages
 - 2 safety pins
 - 1 large individually wrapped, sterile, unmedicated wound dressing
 - individually wrapped, moist cleansing wipes
 - Pair of disposable gloves (non-latex)
 - HSE leaflet "Basic advice on first aid at work" which can be printed from the following link <http://www.hse.gov.uk/pubns/indg347.pdf>
- (4) **Paragraph 10.** Amend page 23, paragraph 7.2 of the Regulatory Guidelines, item 25: to reflect '6-monthly vehicle inspection' not a '6 monthly MOT check'.
- (5) **Paragraph 13.** Amend paragraph 1.6c of HC and PHD&V Rule Book to state:
'If an applicant has an exchangeable licence for a non-EU/EEA designated country they need to convert it to a GB DVLA Licence prior to applying for a private hire/hackney carriage drivers licence. The convertible licence can be used to demonstrate they have been driving for 1 year before applying for a Hackney Carriage/Private Hire Driver's Licence.'
- (6) **Paragraph 13.** Remove 'for vocational purposes' from paragraph 1.6c as this is confusing because in DVLA terms vocational relates to vehicles of more than 8 passengers, and this licensing authority only licences vehicles that carry less than 8 passengers.
- (7) **Paragraph 14.** Amend paragraph 1.6c of the HC Rule Book, by changing Private Hire Driver's Licence for 'Hackney Carriage Drivers licence'.
- (8) **Paragraph 15.** Amend paragraph 1.6(e) of the HC rule book and paragraph 1.2(d) of the PHO rule book to say 'Applications will not be accepted from Foreign Nationals that hold a Student Visa'.
- (9) **Paragraph 18.** Remove paragraph 2.2c of the HC and PHD&V Rule Books and amend the Hackney Carriage and Private Hire drivers application form accordingly.

- (10) **Paragraph 19.** Amend paragraph 2.2f of the HC and PHD&V Rule Books regarding MOT advisory notices; removing the words ‘..and advisory notice if applicable’.
- (11) **Paragraph 21.** Amend paragraph 2.5 of the HC Rule Book Like: replacing the word ‘private hire purposes’ with ‘Hackney Carriage purposes (public hire)’.
- (12) **Paragraph 23.** Insert after paragraph 3.6 of the HC and PHD&V Rule Books: ‘There is a power to immediately suspend or revoke a licence on the grounds of public safety under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976’.
- (13) **Paragraph 24.** Amend the typing error on paragraph 3.9 of the HC Rule Book to state: ‘The Town Police Clauses Act 1847’ not 1987.
- (14) **Paragraph 25.** Amend paragraph 3.21 of the HC Rule Book to state: “All new additional Hackney Carriage Vehicles”.
- (15) **Paragraph 26.** Include the following sentence at the end of paragraph 3.23 of the HC Rule Book: “*The vehicle may be changed to a larger/different class of vehicle and revert back to a saloon type at owner’s discretion.*”
- (16) **Paragraph 28.** Amend the error noted on paragraph 3.34c of the HC Rule Book by changing reference to 3.23(a) to 3.34(a).
- (17) **Paragraph 29.** Amend paragraph 3.34d of the HC Rule Book; to say ‘*..Once the vehicle has reached the age of 8 years since the first date of registration the vehicle shall be tested at 6 monthly intervals from the date of its last vehicle inspection test and submitted to the Licensing Authority*’
- (18) **Paragraph 32.** Amend paragraph 3.55 of the HC Rule Book to avoid confusion by inserting (e.g. 2ft x 1ft) at the end of the paragraph.
- (19) **Paragraph 35.** Amend paragraph 3.59(w) of the HC Rule Book (horse drawn carriages) by removing the words ‘*without the use of an electronic taxi meter*’ in this paragraph be amended to ‘*where an electronic taxi meter is not used*’.
- 3.13 The matters which require greater consideration are noted below 1 – 5 and the Officer recommendations are highlighted in **Bold**:
- (1) **Paragraph 11.** Paragraph 1.1 in both HC and PH rules books proposes to remove the word immediately. Mr Ahmed requests that this word is retained, to ensure any driver who has previously had their driving licence revoked can demonstrate their driving history for 12 months before any licence is entertained. Mr Ahmed has also requested that Members consider standards of new applicants and require them to have a clean driving licence upon initial application.

The law states that the driver must have held a full driving licence for at least 12 months before making an application, but this does not mean that if he has had his licence revoked in the past, another 12 months needs to elapse before they are allowed to apply for a HC/PH licence. Provided that at least one year has elapsed since he passed his driving test and was originally authorised to drive, the statutory test is satisfied. Members should consider whether they wish to raise the standard of new applicants, bearing in mind that some licensed drivers are currently considered suitable to be licensed despite having motoring convictions on their driving licences. **The Officer recommendation is to remove the word 'immediately' from this paragraph.**

- (2) **Paragraph 27.** Paragraph 3.34 a-d of the HC Rule Book and paragraph 3.31a-d of the PHD&V Rule Book sets an upper age limit for the vehicle to be removed from service. This gives a guideline to officers that no automatic grant of the vehicle licence will take place unless they are referred to Committee for consideration. Mr Ahmed is requesting greater Officer discretion in assessing whether a vehicle over 10 years old is suitable; based on vehicle inspection tests, mileage and general condition, with scope for drivers to appeal to the Committee if the Licensing officer refuses to renew the licence.

This representation mirrors one of the comments raised by Mr Bartholomew; Members are advised that if a driver has a vehicle over 10 years of age and they want an exemption made on their vehicle based on its good condition, members can consider this on an individual basis. **Members may wish to consider whether they are satisfied with this provision or whether they are minded to delegate these requests to Licensing Officers.** If Members agreed to allow greater officer discretion, appeals against officer refusals could remain with the Licensing and Enforcement committee to determine.

- (3) **Paragraph 25.** Mr Ahmed disputes the need for so many wheelchair vehicles in the fleet. This matter is referred to members for consideration. All new additional Hackney Carriages must currently be wheelchair accessible and this has applied to any new plate issued since 1997, to increase the number of wheelchair accessible vehicles in the fleet. A Comparison of wheelchair accessible vehicles for the County can be found in Appendix G. Currently 18% of our Taxi fleet are wheelchair accessible (14.5% in 2010), but in combination with Private Hire fleet, the total amount of wheelchair accessible vehicles licensed in Gloucester is around 8% (6% in 2010). There does appear to be a small increase in the last 3 years seeing an additional 5 wheelchair accessible vehicles (WAV's) within the total licensed fleet.

Government originally intended that all new taxis would be wheelchair accessible from January 2002 and all vehicles from January 2012. The Equalities Act 2010 later intended to improve accessibility by proposing to set clear guidelines for vehicle specifications and imposing a restriction on

local authorities from limiting vehicle numbers where a low percentage of wheelchair accessible vehicle are licensed. It was intended to bring these provisions in force by April 2011, however Government have faced difficulties in doing so. In the meantime, accessible taxi policies remain a matter for individual local licensing authorities in line with previous guidance that has been issued by the Department. Further requests have been made for government to consider accessibility within the reform of the legislation governing taxis and private hire.

Given Central Governments' position on this matter and the pending reform of the Hackney Carriage and Private Hire legislation (aimed for 2015). **Members are recommended to keep the condition requiring all new additional taxi's to be wheelchair accessible for the time being**, to ensure we can maintain some licensed WAV's within the fleet and review our position again in the future once we know whether Government will set a minimum percentage of WAV's or not.

- (4) **Paragraph 38.** In House Booking Systems can be greatly beneficial in helping busy clubs and pubs disperse their customers' home quickly. Enforcement Officers continue to monitor the in-house booking activities in the City and warning letters with totting up penalty points are issued to Operators to address any contraventions witnessed. Members could consider additional conditions to help address the concerns surround the operations of these in-house booking arrangements.

Members should consider the proposals to pedestrianise Eastgate Street on Friday and Saturday nights and the benefits that such a scheme can have. **It is recommended that this system is allowed to continue** where the venue in question has a large customer base, would benefit from such a scheme to help disperse customers more quickly and where this venue can identify a suitable pick up point to summon private hire vehicles to safely collect their passengers.

- (5) **Paragraph 39.** Mr Ahmed has also raised a concern regarding an operational matter of printing drivers names on their badges since 2011. The licensing team introduced this on drivers badges for a number of reasons but namely to help authorised officers identify the driver's name when carrying out enforcement checks. This approach is also applied to SIA doormen's badges where the name is printed on the front of the badge in smaller less noticeable font to the licence number. It is disputed that they do not want the customer to know their names in case they face difficulties with them. The Trade, however, have not indicated any negative impact that clearly outweighs the benefits of displaying the driver's name and therefore **it is recommended that drivers names continue to be printed on their badges to help with identification.** Members are advised that drivers' names are recorded on the public register, which are available to members of the public on request.

- 3.14 During the consultation period, four additional motoring offences have come to our attention, which need to be included in the regulatory guidelines list of major traffic offences. They are:

CD80: Causing death by careless or inconsiderate driving

CD90: Causing death by driving: unlicensed, disqualified or uninsured drivers

DD10: Causing serious injury by dangerous driving

DD90: Furious driving

- 3.15 The current rule books covering all drivers, vehicles and operators each contain a condition, which allows the Council to alter the conditions upon giving 28 days notice in writing to the licence holder following a consultation process and Committee decision.

4.0 Alternative Options Considered

- 4.1 Members may choose to accept the suggested changes as noted on the revised document in whole, or alternatively accept the revisions in part.
- 4.2 Members may request for further amendments to be made to the suggested revisions which they consider suitable for the Committee to consider.

5.0 Reasons for Recommendations

- 5.1 Reasons for the key changes are provided within the responses in italics noted in Appendix F and within paragraphs 3.10 – 3.13 of this report.
- 5.2 The Current Council policy and conditions contained in the Private Hire Rule Book, Hackney Carriage rule book and Operators rule book was approved by Members at their meeting on 19 January 2010 and came into force following some further amendments on 1 June 2010. Since this time, Licensing Officers using the book on a daily basis have spotted some minor errors, elements missing or out of date or confusing and so the largest element of this revision is to tidy up the content.

6.0 Future Work and Conclusions

- 6.1 Members will be aware that the main legislation governing taxi's dates back to 1847 and in parts does not reflect modern society. The Law Commission for England and Wales, which advises the Government on law reform, launched a public consultation during 2012, seeking views on proposed changes to the way in which taxis and private hire vehicles are regulated. The consultation paper, "Reforming the law of taxi and private hire services", proposes to retain the distinction between taxis, which can "ply for hire" on the street or at a taxi rank

and private hire vehicles which can only be pre-booked. Further proposals include licensing of Rickshaws and that all vehicles would be subject to national minimum safety standards.

- 6.2 The Food and Licensing Service will be following the progress on any changes to the legislative framework; however, it is not anticipated that such legislation will be available until at least 2014 (aim to produce final proposals by November 2013). Once new legislation is in force, the Council's policy for hackney carriage and private hire licensing will be reviewed again to consider those changes.
- 6.3 The next review of the Policy is scheduled for 2016; however it may be amended prior to this, depending on changes to the legislative framework, national guidance or changes to internal procedures/processes.
- 6.4 Once the revised policy is approved and adopted by the Licensing and Enforcement Committee. Any alterations to conditions will take effect to all Hackney Carriage and Private Hire Licences, 28 days after each driver operator and vehicle proprietor has received notification from the licensing authority in writing.
- 6.5 Members are referred to the options at 2.1(1) and (2) of this report.

7.0 Financial Implications

- 7.1 There are no financial implications relating to this report.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 The rationale behind the licensing regime is the provision of part of the public transport service that is accessible and safe, and seen to be so.
- 8.2 As referred to in the main body of the report, the Council has various powers for imposing reasonable licensing conditions on operators, drivers and vehicles.
- 8.3 A "person aggrieved" has a right of appeal to the Magistrates' Court to challenge conditions imposed. These include persons from either trade and therefore it is important to apply conditions that are reasonable.
- 8.4 In reaching its decision, Members need to take account of all relevant factors and evidence, including the original Member decision and the validity of the arguments used in court to today's situation, the feedback on the consultation,

the nature of the Gloucester City area, the DfT Best Practice Guide and the legislation and the judicial authorities that have come from the Courts.

- 8.5 The law requires conditions to be added, or taken away from licences on the grant or the licence. There is no power to unilaterally alter the conditions during the currency of the Licence.
- 8.6 The situation regarding revocation of licences, and subsequent re-grant, and the potential condition allowing the amendment of existing licences is dealt with in the report.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 The risk management implications for this report and Policies are as follows:-
- Hackney Carriage and Private Hire Policy is unfair or too prescriptive.
 - Consultation inadequate.
 - The risk of an appeal to Magistrates should an inappropriate or unreasonable decision be made and the potential for a financial penalty in costs awarded to be incurred.
- 9.2 The risks identified above are all low due to the actions / risk responses taken.

10.0 People Impact Assessment (PIA):

- 10.1 The Screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.
- 10.2 The PIA screening stage was completed and did not identify any potential or actual negative impact. A full PIA was therefore not considered necessary.

11.0 Other Corporate Implications

Community Safety

- 11.1 The basis of the guidelines is to provide a standard for licensed Private Hire and Hackney Carriage drivers to work to. The overall aim of the licensing regime is public protection.

Sustainability

11.2 Hackney Carriage and Private Hire licensed drivers provide an important addition to the public transport provision in the City and so contribute to environmental sustainability.

Staffing & Trade Union

11.3 None

Background Documents:

Town Police and Clauses Act 1847

The Local Government (Miscellaneous Provisions) Act 1976

Department for Transport: Taxi and private hire vehicle licensing: best practice guidance (March 2010)

Gloucester City Council Hackney Carriage Sub Committee Minutes 30th March 1998 – (minute 35)

Gloucester City Council Cabinet Minutes 13 March 2002 – (minute 116.7)