



Committee: LICENSING REGULATORY COMMITTEE

Date: THURSDAY, 21 JULY 2011

Venue: LANCASTER TOWN HALL

Time: 1.00 P.M.

A G E N D A

1. **Apologies for Absence**
2. **Minutes of the meeting held on 9 June 2011 (previously circulated)**
3. **Items of urgent business authorised by the Chairman**
4. **Declarations of Interest**
5. **Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage Vehicle Licensing - Request for Waiver of Policy Requirement that all Vehicles must provide direct access and egress without the need to tip or fold seats (Pages 1 - 4)**

Report of Licensing Manager.

6. **Confidential Items:-**

The following reports are not for publication because they contain confidential information relating to cautions/convictions and will be considered whilst the public are excluded from the meeting. The applicants have been invited to attend and/or be represented at the meeting, but will be asked to leave whilst the Committee makes the decision, as exempt legal advice may be given.

Members are advised that, in accordance with Section 100A(2) of the Local Government Act 1972, the press and public should be excluded for the following items of business on the grounds that they could include the possible disclosure of confidential information.

7. **Existing Private Hire Drivers Licence - Laurence William Dent (Pages 5 - 23)**

Report of Licensing Manager.

8. **Application for Dual Driver's Licence - Timothy Tyler Kinnish (Pages 24 - 26)**

Report of Licensing Manager.

9. **Application for a Private Hire Driver's Licence - Robert Terence Keegans (Pages 27 - 32)**

Report of Senior Licensing Officer.

10. **Exempt Item:-**

The Committee is recommended to pass the following recommendation in relation to the following item:

“That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the possible disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of that Act.”

Members are reminded that, whilst the following item has been marked as exempt, it is for the Committee itself to decide whether or not to consider it in private or in public. In making the decision, Members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and should balance the interests of individuals, or the Committee itself, in having access to information. In considering their discretion, Members should also be mindful of the advice of Council Officers.

11. **Existing Private Hire Driver's Licence - Trevor Sherrington (Pages 33 - 41)**

Report of Licensing Manager.

Public Items:-

The press and public will be readmitted to the meeting at this point.

12. **House to House Collections Policy (Pages 42 - 48)**

Report of Licensing Manager.

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors John Harrison (Chairman), Shirley Burns, Chris Coates, Sheila Denwood, Jonathan Dixon, Mike Greenall, Billy Hill, Tony Johnson and Robert Redfern

(ii) Substitute Membership

Councillors Roger Dennison, Joan Jackson, Tracey Kennedy, David Kerr, Terrie Metcalfe, Margaret Pattison and Susan Sykes

(iii) Queries regarding this Agenda

Please contact Tom Silvani, Democratic Services - telephone (01524) 582132 or email tsilvani@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on 13 July 2011.

LICENSING REGULATORY COMMITTEE**Local Government (Miscellaneous Provisions) Act 1976****Hackney Carriage Vehicle Licensing – Request for Waiver of Policy Requirement that all Vehicles must Provide Direct Access and Egress Without the Need to tip or Fold Seats****21 July 2011****Report of the Licensing Manager****PURPOSE OF REPORT**

Mr P Bishop is the proprietor of a hackney carriage licensed by Lancaster City Council. He has requested a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat. The purpose of this report therefore is to enable Members to consider the request.

The report is public

RECOMMENDATIONS

The Committee is requested to determine in the light of the representations made, whether to allow the applicant's request for a waiver of the standard requirement that all passengers should have direct access and egress without having to tip or fold seats, and to determine whether to grant an exemption to the restriction for Mr Bishop with regard to the VW Caddy Maxilife and for any other vehicles of the same model with identical specifications that may be presented for licensing in the future.

1.0 Introduction

- 1.1 Under section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976, a District Council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as they may consider reasonably necessary. Any person aggrieved by the refusal of a District Council to grant a vehicle licence under this Section, or by any conditions specified in such a licence, may appeal to a Magistrates' Court.
- 1.2 For the purpose of the above, the Council has established conditions attached to the grant of a hackney carriage vehicle licence.
- 1.3 The standard licence condition provides "Access to all passenger seats must be unimpeded. Clear access and egress to all passenger seats must be provided,

without the need to tip forward, fold or remove seats. This will apply to all new and replacement vehicles licensed after this policy comes into force. If a seat has to be removed to comply with this requirement, it shall be removed from the nearside of the vehicle, from the row of seats, which are situated behind the front passenger seat.”

- 1.4 Some Members will be aware that the continued application of the above licence condition has recently been the subject of a consultation process following its approval by this Committee last September. The consultation ended in June, and a full report of the outcome of that consultation will be delivered to this Committee in September.
- 1.5 Mr Bishop has currently licensed the VW Caddy to carry 5 passengers, one of the passengers being a wheelchair user. Mr Bishop does have one of the mandatory wheelchair accessible vehicles. Mr Bishop has requested to make representations to this Committee, as he would like to add two extra seats (which are removable) to the vehicle, to allow for maximum flexibility. The vehicle would then be licensed to carry a maximum of 6 passengers, when not carrying a wheelchair user. A copy of Mr Bishop's letter is attached at appendix 1 to this report.
- 1.6 Mr Bishop has, at the suggestion of the licensing manager added some additional safety measures to the vehicle. The vehicle has a rear hatch/door which is capable of being opened from the inside of the vehicle, and is clearly marked 'Emergency Exit'. This would allow passenger in the rear row of seats (if approved) to egress the vehicle through the back hatch, without having to move a passenger in front of them, in case of emergency. The vehicle is available for members to inspect.
- 1.7 Before coming to a decision on this matter, members may wish to consider some of the issues that may arise from the grant of this licence.
 1. This is a mandatory wheelchair accessible vehicle. The rationale of granting additional licences solely for wheelchair accessible vehicles was to ensure that the needs of passengers in wheelchairs could be met by these vehicle at all times. There is a danger that a driver may consider it too much trouble to remove extra seats before loading a wheelchair into the vehicle.
 2. If the condition were waived, the vehicle would be licensed to carry 6 passengers, and would display a plate accordingly. In actual fact when it was being used to carry a wheelchair passenger it would only be capable of carrying 3 passengers, inclusive of the wheelchair. This could have the potential to cause friction on the rank if customers are expecting the vehicle to carry the full complement of passengers.
 3. This type of arrangement may be more suitable for private hire vehicles that are pre booked, and therefore would know the customer requirements before leaving to do the job.
 4. From a positive point of view, this type of arrangement does allow for flexibility.
- 1.8 Mr Bishop has been invited to attend the meeting to make representations and answer some of the points raised above, in support of his request. The vehicle will be available for inspection, and Members will be informed of the arrangements for this.

2.0 Conclusion

- 2.1 Members are asked to consider whether they are satisfied to allow the applicant's request for a waiver of the standard licence requirement on access and egress, subject to the additional conditions that the rear door/hatch must be capable of being opened from inside the vehicle, and must be clearly marked 'Emergency Exit.'
- 2.2 If members are minded to approve this request, the licensing manager would like the Committee to authorise her to start an approved list of vehicles and to allow this type of vehicle, with the exact specifications, to be added to any such list, so that future requests to licence an identical vehicle can be dealt with by officers as an automatic grant.

CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

FINANCIAL IMPLICATIONS

Financial Services have not been consulted as there are no financial implications.

LEGAL IMPLICATIONS

Should Members be minded to refuse the applicants' request for a waiver of certain standard licence conditions they would have a right of appeal to the Magistrates' Court against the issue of a licence which included those conditions.

BACKGROUND PAPERS

None

Contact Officer: Wendy Peck

Telephone: 01524 582317

E-mail: wpeck@lancaster.gov.uk

Ref:

Dear Sir,

I would like to put forward for consideration, the use of my new vehicle a VW Caddy Maxi 7 seater (mobility vehicle) to be permitted for use as both a 6 seater vehicle or alternatively a 4 passenger plus 1 wheelchair, the rear door is fitted with an emergency exit handle on the inside in case of emergencies to allow the 2 passengers in the rear seats a means of accessible emergency exit.

This would enable my vehicle to be more versatile as when being used by a wheelchair, the 2 rear seats are easily removed and safely placed on the forward seats.

If you wish me to attend any meetings with my vehicle for further clarification then I am happy to oblige.

Yours Sincerely
P J Best

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LICENSING REGULATORY COMMITTEE

House to House Collections Policy

21 July 2011

Report of Licensing Manager

PURPOSE OF REPORT

The report seeks Members' approval of the adoption of a House to House Collections Policy for the Council.

This report is public

RECOMMENDATIONS

That the attached Draft House to House Collections Policy be adopted.

1.0 Introduction

- 1.1. As Members will be aware, the Licensing Service is responsible for regulating a wide range of functions including House to House collections.
- 1.2 House to House collections are governed by the House to House Collections Act 1939 and the House to House Collections Regulations 1947, as amended. As a general rule, house to house collections for charitable, benevolent or philanthropic purposes, whether or not the purpose is charitable within the meaning of the rule of law, are required to be licensed by the authority. The definition of 'collection' extends beyond requests for money, to include the sale of magazines, requests for unwanted clothing and household items, visits to persuade persons to buy goods, etc where any part of the proceeds may go to charity
- 1.3 The only exception to the general rule is for organisations that have been granted an Exemption Certificate by the Home Office under the provisions of the House to House Collections Act 1939. This Certificate allows an organisation to collect in the District without applying for a licence. The organisation must inform the authority of the dates and areas of any planned collections.
- 1.4 The authority can refuse or revoke a licence for a number of reasons:
 - If too high a proportion of the proceeds are to be spent on expenses;
 - If not enough of the proceeds are to be given to the charity or cause;
 - If incorrect information was provided on the application form
 - If the promoter or any other person involved in the collection has been convicted of certain criminal offences, i.e. burglary, blackmail or fraud.

There is a right of appeal to the Secretary of State against the refusal or revocation of a licence within 14 days from the date on which the notice is given of the refusal or revocation.

- 1.5 The proposed Policy sets out the proportion of the proceeds of any House to House collection that should be applied to the charitable purposes that the collection is being made for. For this purposes officers would recommend that 85% of the profits of any House to House collection should be applied to the charity.
- 1.6 The licensing officers are of the opinion that a Policy of this type is necessary due to the number of bogus companies that are setting up and carrying out House to House collections mainly for private gain
- 1.7 Licensing enforcement officers in conjunction with officers from the Lancashire Constabulary intercepted one of these bogus collections in January this year. All of the goods were seized and donated to St Johns Hospice which is a local charity.
- 1.8 The Association of charity shops estimates that charities lose between £2.5 million and £3million a year through theft and people giving clothing to organisations which they think are charities but may be commercial companies collecting for profit
- 1.9 In order to achieve its aims, the Licensing Manager has identified the major issues and sought to tackle them through this policy with the intention of:
 - Ensuring impartiality and fairness in determining applications;
 - Accommodating all eligible requests, subject to capacity, and bearing in mind that certain days and locations are especially sought after;
 - Providing equality of opportunity for would-be collectors;
 - Avoiding causing undue nuisance to the public;
 - Setting fair maximum limits for one applicant;
 - Achieving a fair balance between local and national causes;

2.0 Conclusion

- 2.2 Members are recommended to approve the proposed House to House collections policy and to approve immediate implementation.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The proposed policy does not have the potential to cause negative impact or discriminate against different groups in the community based on age, disability, gender, race/ethnicity, religion or religious belief (faith), sexual orientation, or rural isolation.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this report.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no further comments.

BACKGROUND PAPERS

None

Contact Officer: Wendy Peck

Telephone: 01524 582317

E-mail: wpeck@lancaster.gov.uk

Ref: WP



House to House Collections Policy

DRAFT

House to House Collections Policy

Introduction

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The only exception to the general rule is for organisations that have been granted an Exemption Certificate by the Home Office under the provisions of the House to House Collections Act 1939. This Certificate allows an organisation to collect in the District without applying for a licence. The organisation must inform the authority of the dates and areas of any planned collections.

Aims

The aims of the licensing authority are to:

- Safeguard the interests of both public donors and beneficiaries;
- Facilitate well organised collections by bona fide charitable institutions and to ensure that good standards are met, and;
- Prevent unlicensed collections from taking place.

Objectives

In order to achieve its aims, the licensing authority has identified the major issues and sought to tackle them through this policy with the intention of:

- Ensuring impartiality and fairness in determining applications;
- Accommodating all eligible requests, subject to capacity, and bearing in mind that certain days and locations are especially sought after;
- Providing equality of opportunity for would-be collectors;
- Avoiding causing undue nuisance to the public;
- Setting fair maximum limits for one applicant;
- Achieving a fair balance between local and national causes;

The licensing authority recommends that all organisations adhere to the Institute of Fundraising's Code of Fundraising Practice. A copy of this code of practice can be found at www.institute-of-fundraising.org.uk

General Principles

Charities must be registered with the Charity Commission, or be a charitable organisation based in/around Lancaster.

Wherever possible, two organisations shall not be permitted to collect in the same area on the same day. Applications will be dealt with on a first come first served basis.

In general, organisations shall not be permitted to hold more than two collections throughout the District or part thereof during one calendar year.

To avoid the prospect of multiple collections being made in any one day, it will be the policy of the Council to no longer grant licences for a period of twelve months.

To give sufficient time to allow as many different organisations as possible to undertake a collection, it will be the policy of the Council not to grant licences for periods in excess of 14 days.

Applications will only be accepted for charitable collections to be held in the current or next calendar year.

Whilst each application will be decided on merit, at least 85% of the total proceeds of the collection must be given to the charity or cause. No more than 15% of the total proceeds can be deducted by the organisation for expenses/costs relating to the collection.

The applicant must forward a financial return form to the authority within one month of the date of collection showing details of the monies collected. No licence will be issued to any applicant that has failed to forward the financial return form in respect of previous collections

Applications

In order for the necessary checks to be carried out and to leave time for prescribed badges and certificates to be ordered and received from Her Majesty's Stationery Office (HMSO), it is advised that applications are submitted a minimum of three months before the proposed date of collection.

Any application received less than 28 days before the proposed first date of collection will be declined. This requirement may be waived in exceptional circumstances by the Licensing Manager.

The following information must be submitted with the application:

Literature about the organisation;

- Copy of the published accounts for the last two years;
- If you are not an official of the organisation, a letter from the charitable organisation authorising you to undertake a collection on their behalf,

- Any agreement or contract details with the registered charity or individual benefiting from the collection.

Applications requesting longer than 14 days will not be accepted.

Applications will be considered on receipt. In the event that further information is requested from the applicant to assist in the determining of the application, this must be provided in a timely fashion. Failure to do so will result in a delay to consideration, or refusal of the application.

Applications which in the opinion of the Licensing Manager do not comply with this Policy and should be refused will, at the applicant's request, be referred to the next available meeting of the Licensing Regulatory Committee for consideration. The applicant will be notified in advance of the date and time of the meeting.

The authority can refuse or revoke a licence for a number of reasons:

- If too high a proportion of the proceeds are to be spent on expenses;
- If not enough of the proceeds are to be given to the charity or cause;
- If incorrect information was provided on the application form
- If the promoter or any other person involved in the collection has been convicted of certain criminal offences, i.e. burglary, blackmail or fraud.

There is a right of appeal to the Secretary of State against the refusal or revocation of a licence within 14 days from the date on which the notice is given of the refusal or revocation.