



Committee: LICENSING COMMITTEE
Date: THURSDAY, 6 JUNE 2019
Venue: LANCASTER TOWN HALL
Time: 1.00 P.M.

AGENDA

1. **Apologies for Absence**

2. **Appointment of Vice-Chair**

To appoint a Vice-Chair for the 2019/20 municipal year.

3. **Minutes**

Minutes of the last meetings of the former Licensing Regulatory Committee held on 21 March 2019 and the former Licensing Act Committee held on 14 June 2018 (previously circulated).

4. **Items of Urgent Business authorised by the Chair**

5. **Declarations of Interest**

To receive declarations by Councillors of interests in respect of items on this Agenda.

Councillors are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting.)

Whilst not a legal requirement, in accordance with Council Procedure Rule 9, and in the interests of clarity and transparency, Councillors should declare any disclosable pecuniary interests, which they have already declared in the Register, at this point in the meeting.

In accordance with Part B, Section 2 of the Code of Conduct, Councillors are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

Matters for Decision

6. **Chairs of the Licensing Sub-Committees** (Pages 1 - 2)

Report of the Licensing Manager

7. **Local Government (Miscellaneous Provisions) Act 1976 - Vehicle Licensing - Tinted Windows** (Pages 3 - 9)

Report of the Licensing Manager

8. **Local Government (Miscellaneous Provisions) Act 1976 - Vehicle Licensing - Approved List Updates - Request to Waiver Conditions Relating to Access and Egress of Specific Make/Models of Licensed Vehicles** (Pages 10 - 40)

Report of the Licensing Manager

Exclusion of the Press and Public

9. **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 ground that it could involve the possible disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of that Act.”

Councillors are reminded, whilst the following item has been marked as exempt, it is for the Committee to decide whether or not to consider it in private or in public. In making the decision, Councillors should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their discretion, Councillors should also be mindful of the advice of Council officers.

10. **Urgent Business - Existing Hackney Carriage/Private Hire Dual Driver Licence - Kieron Thompson** (Pages 41 - 57)

Report of the Chief Executive

ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors Colin Hartley (Chair), Adrian Duggan, Merv Evans, Kevin Frea, Mike Greenall, Mel Guilding, Joan Jackson, Abi Mills, Jean Parr and Joyce Pritchard

(ii) **Queries regarding this Agenda**

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068 or email jglenton@lancaster.gov.uk.

(iii) **Changes to Membership, substitutions or apologies**

Please contact Democratic Support - telephone (01524) 582170 or email democraticsupport@lancaster.gov.uk.

KIERAN KEANE,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on 29 May 2019.

LICENSING COMMITTEE**Chairs of Licensing Sub-Committees
6 June 2019****Report of the Licensing Manager****PURPOSE OF REPORT**

To enable the Committee to make arrangements for the chairing of Licensing Sub-Committees during the forthcoming municipal year.

This report is public.

Recommendation

That the Committee appoints, for the municipal year 2019/20, the Chair of the Licensing Committee and three further Councillors, who are members of the Licensing Committee, to act as Chairs of the ad hoc Sub-Committees established to hear individual applications under the Licensing Act 2003 and the Gambling Act 2005.

1.0 Introduction

- 1.1 The procedure for establishing sub-committees to deal with hearings under the Licensing Act 2003 was agreed at the former Licensing Act Committee's meeting on the 14th February 2005.
- 1.2 Each Sub-Committee must comprise three members of the Licensing Committee. The Sub-Committees are convened by the Democratic Services Manager, as and when required, from the Licensing Committee's ten members.

2.0 Proposal Details

- 2.1 The Committee is requested to appoint the Chair of the Licensing Committee and three further Councillors, who are members of the Licensing Committee, to act as Chairs of the ad hoc Sub-Committees.

3.0 Details of Consultation

- 3.1 None

4.0 Options and Options Analysis (including risk assessment)

- 4.1 There is a need for the Licensing Committee to appoint Sub-Committee Chairs to chair the ad hoc Licensing Sub-Committee hearings.

5.0 Conclusion

- 5.1 The Committee is recommended to appoint its Chair and three further Councillors, who are members of the Licensing Committee, to act as Chairs of the ad hoc Sub-Committee hearings.

CONCLUSION OF IMPACT ASSESSMENT

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

None.

FINANCIAL IMPLICATIONS

The Independent Remuneration Panel (IRP) has made provision for special responsibility allowances of £443.70 to be paid to each Sub-Committee Chair, in addition to the special responsibility allowance that is paid to the Chair of the Committee, and the budgetary provision reflects this. The fact that a Councillor is only entitled to receive one special responsibility allowance means that it is impossible to estimate the actual budget cost in advance, and generally gives leeway within the budgetary provision.

LEGAL IMPLICATIONS

The proposal is in accordance with the provisions of the Licensing Act 2003, which provides for the establishment of one or more Sub-Committees consisting of three members of the Committee, but makes no further provision as to how this should be arranged.

OTHER RESOURCE IMPLICATIONS**Human Resources:**

None

Information Services:

None

Property:

None

Open Spaces:

None

S151 OFFICER'S COMMENTS

None.

MONITORING OFFICER'S COMMENTS

None.

BACKGROUND PAPERS

None

Contact Officer: Jennifer Curtis

Telephone: 01524 582732

E-mail: jcurtis@lancaster.gov.uk

Ref: JC

LICENSING COMMITTEE**Local Government (Miscellaneous Provisions) Act 1976
Vehicle Licensing – Tinted Windows
6th June 2019****Report of the Licensing Manager****PURPOSE OF REPORT**

To consider the imposition of vehicle licence conditions to hackney carriage and private hire vehicle licences in respect of tinted windows, and consider licensing of the vehicle presented to councillors by Mr Patel and Mr Patel.

The report is public

RECOMMENDATIONS

The Committee are requested to consider the imposition of vehicle licence conditions to hackney carriage and private hire vehicle licences in respect of tinted windows, and consider licensing of the vehicle presented to members by Mr Patel and Mr Patel.

1.0 Background

- 1.1 Under section 47(1) and 48 (2) of the Local Government (Miscellaneous Provisions) Act 1976, a District Council may attach to the grant of a licence of a hackney carriage or private hire vehicle under the Act of 1976 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 councillors' information, the Council has no established conditions attached to the grant of private hire and hackney carriage vehicle licences in respect of permitted level of tint on windows of licensed vehicles operating in the District.
- 1.3 Mr Faruk Patel and Mr Mohammed Siddik Patel wish to licence a Toyota Prius as a hackney carriage vehicle that has the rear windows tinted. The level of tint on the rear windows is of such a level that you cannot see through into the rear of the vehicle. Attached at **Appendix 1** are photographs of the vehicle.
- 1.4 Councillors should consider the imposition of a condition relating to permitted level of tint on licensed vehicles to provide clarity for the trade and ensure each application is treated fairly and consistently.

- 1.5 Mr F.Patel and Mr M.Patel have been invited to attend Licensing Committee and present their vehicle for councillors' for inspection.

2.0 Benchmarking

- 2.1 Many other licensing authorities insist on a certain minimum standards in terms of light transmission whilst others do not stipulate any requirements at all.
- 2.2 Provided are some examples of conditions/vehicle specifications councillors may wish to consider.

Manchester City Council:

Front windscreen transmission - minimum 75% light
Front side door glass transmission - minimum 70% light
Remaining glass (exc. rear window) transmission - minimum 70% light

South Ribble:

Any hackney carriage or private hire vehicle which is first licensed shall be fitted with glass windows which permit a minimum of 70% light transmission (irrespective of whether the vehicle was manufactured contrary to this standard). No vehicle shall be fitted with additional film designed to tint or darken the glass. (PHVs can apply for an exemption)

Bury:

Front passenger and driver side windows (minimum light transmittance - 70%)
Remaining glass (other than the rear windscreen) minimum light transmittance - 25%.

Wyre:

All factory fitted glass to the front of the drivers door pillar vehicle, shall permit a minimum of 70% light transmission and no vehicle shall be fitted with additional film designed to tint or darken the glass.

- 2.3 Examples of window tint levels are attached at **Appendix 2** and will be available to view at the meeting.
- 2.4 The Council's vehicle maintenance unit were asked to provide the legal position on permitted level of tints on windows on domestic vehicles during MOT testing. They are as follows:

MOT Manual, Section 3 – Visibility

“check for, excessive tinting or discolouration of the windscreen or windows on either side of the driver's seat”, “Failure for tinting or discolouration is only justified if the driver's view is significantly affected”.

3.0 Options

- 3.1 Options available to councillors are:
- 1) To introduce a condition to private hire vehicle licences regarding permitted tint levels of windows as decided by councillors;

- 2) To introduce a condition to hackney carriage vehicle licences regarding permitted tint levels of windows as decided by councillors or,
- 3) To allow the permitted level of window tint to continue unregulated, and;
- 4) To permit licensing of Mr Patel and Mr Patel vehicle as observed;
- 5) To refuse the licensing of Mr Patel's and Mr Patel's vehicle as observed.
- 6) Councillors are also requested to provide guidance to the Licensing Manager of how to manage other vehicles that may already be licensed that would not currently meet the licence conditions. e.g. to enforce the condition on licence renewal, suspend any vehicles until such time as they meet the condition requirements or issue a notice period when the conditions would come into effect.

4.0 Conclusion

- 4.1 Councillors are asked to determine whether they wish to introduce vehicle licence conditions regarding the permitted level of tint on licensed private hire and hackney carriage vehicles operating in the district and to consider the vehicle presented by Mr Patel and Mr Patel for licensing.
- 4.2 It is thought that to allow the rear windows of licensed vehicles to have no maximum tint level it may compromise public safety, authorised Council officers, members of the public or any other person could not easily identify any misdemeanours. Significant tint levels may also restrict drivers view.
- 4.3 Should councillors decide to implement conditions, all subsequent vehicles would be tested at the Council's vehicle maintenance unit (VMU), any modifications would be required before licensing is permitted. VMU have confirmed they can acquire the necessary equipment to carry out the light tests.

CONCLUSION OF IMPACT ASSESSMENT
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(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

Under Section 48(7) of the Local Government (Miscellaneous Provisions) Act 1976 any person aggrieved by a condition attached to a private hire vehicle licence has a right to appeal to the Magistrates' Court within 21 days of the grant of the licence.
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BACKGROUND PAPERS

None.

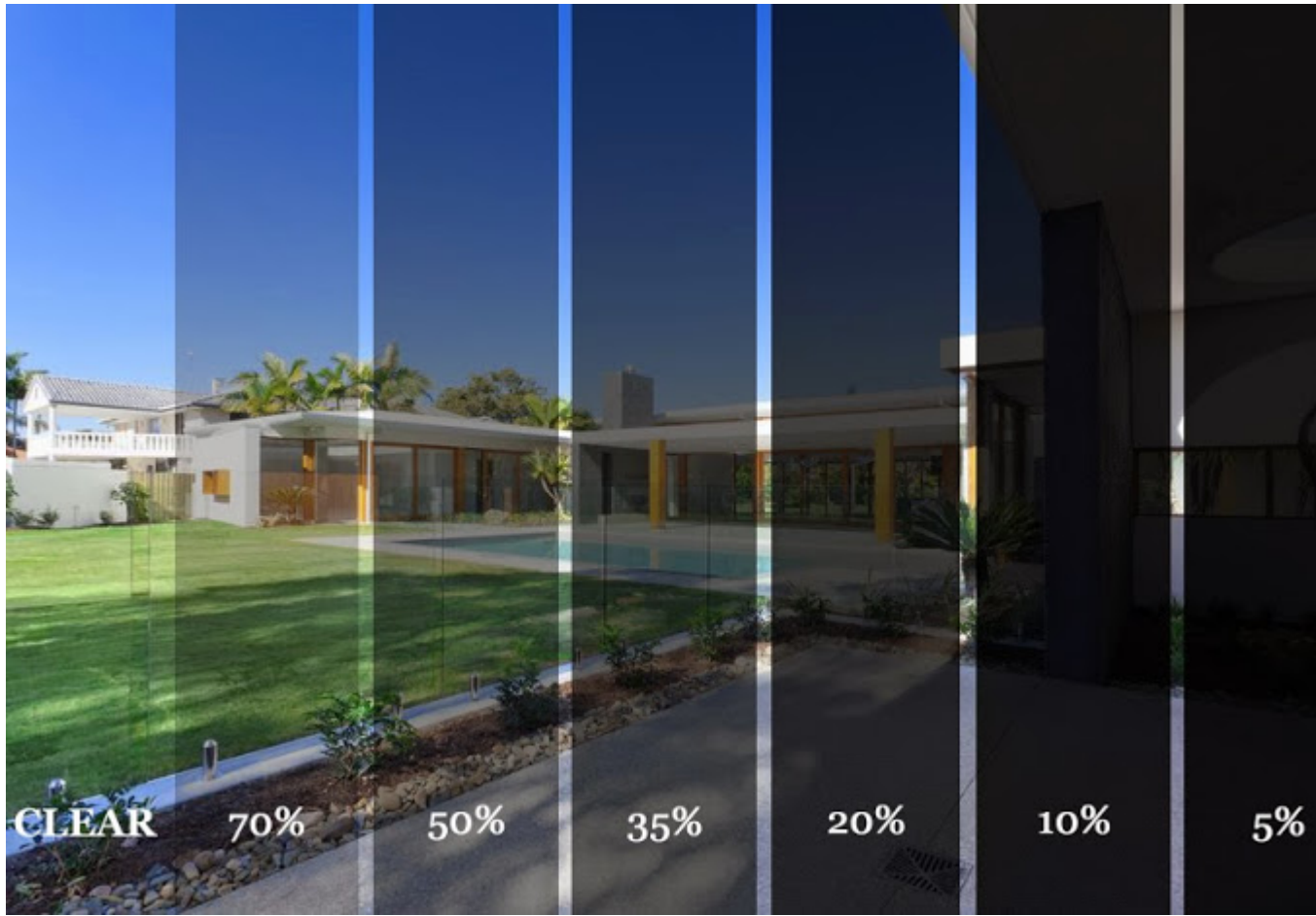
Contact Officer: Jennifer Curtis Telephone: 01524 582732 E-mail: jcurtis@lancaster.gov.uk Ref: JC
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Tint Shade Color Chart

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LICENSING COMMITTEE

**Local Government (Miscellaneous Provisions) Act 1976
Vehicle Licensing – Approved List Updates
Request to Waiver Conditions Relating to Access and
Egress of Specific Make/Models of Licensed Vehicles
6th June 2019**

Report of the Licensing Manager

PURPOSE OF REPORT

To enable councillors to review the list of approved vehicle make/models that have previously been granted licences with an exception of the condition relating to access and egress.

The report is public

RECOMMENDATIONS

The Committee are requested to review the list of approved vehicle make/models that have previously been granted a licence with an exception of the condition relating to access and egress.

1.0 Background

1.1 Under section 47 (1) and 48 (2) of the Local Government (Miscellaneous Provisions) Act 1976, a District Council may attach to the grant of a licence of a hackney carriage or private hire vehicle under the Act of 1976 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 private hire and hackney carriage vehicle licences.

1.3 The standard licence condition relating to access and egress is as follows;

“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.”

It is believed that the above condition was introduced for the safety and comfort of the travelling public.

1.4 At a Licensing Regulatory Committee meeting on 1st September 2011, councillors discussed the conditions relating to access and egress and made the following resolution:

- That the requirement that access and egress to all passenger seats should be unimpeded, as set out in the report, be maintained, and;
- That the committee may make exceptions for specific models of vehicle, made to the manufacturer's specification, on an individual basis, with vehicles approved in this way added to an approved list of vehicles in order that any future requests to license an identical vehicle could be dealt with automatically.

1.5 It has been brought to the attention of the Licensing Manager that an approved list of vehicles that are eligible for the exception has not been maintained; therefore a thorough review is required.

1.6 Licensing staff have looked over licensing regulatory committee reports since the resolution to establish which vehicle make/models were presented to councillors and the decision taken whether to include them on the approved list. The reports and minutes relating to those decisions are attached at **Appendix 1**. An updated approved list is attached at **Appendix 2**.

1.7 Members of the trade have been contacted and requested to submit notification of the make/model of their vehicle if they wish it to be included on the approved list.

1.8 The following vehicle proprietors have been requested to present their vehicles today for members of the Licensing Committee.

Vehicle No.	Vehicle Proprietor	Vehicle Make/Model
1	Mr R. Crow	Kia Caren – New Request
2	Mr D. Clifton	Kia Carens 2 – New Request
3	Mr W. Shah Mr J. Bains	VW Touran (approved Nov 11 – PH only)
4	T&T Transport	VW Caddy Maxilife (approved July 11)

1.9 For members information attached at **Appendix 3 and 4** are two magistrates' court decisions taken following appeals made on the basis that the conditions relating to access and egress are not reasonably necessary.

2.0 Options

2.1 Options available to councillors for each make/model of vehicle are as follows:

- 1) To include any specific make/model of vehicle on the approved list,
- 2) To exclude any specific make/model of vehicle from the approved list, and;
- 3) Consideration should also be given to whether the waiver of condition relating to access/egress should apply to private hire and hackney carriage vehicles.

- 4) Councillors should consider removing the condition from all private hire and hackney carriage licences.
- 5) Councillors should also consider delegating the case-by-case decision making to the Licensing Manager; which would allow for a more efficient way of dealing with applications from vehicle proprietors.

3.0 Conclusion

- 3.1 Councillors are asked to consider each vehicle on a case-by-case, individual basis and decide whether they are satisfied to allow the waiver of the standard licence requirement on access and egress.
- 3.2 Consideration should be given to the vehicle's suitability in terms of type, size and design, safety and comfort.

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 Under Section 48(7) of the Local Government (Miscellaneous Provisions) Act 1976 any person aggrieved by a condition attached to a private hire vehicle licence has a right to appeal to the Magistrates' Court within 21 days of the grant of the licence.	
BACKGROUND PAPERS None.	Contact Officer: Jennifer Curtis Telephone: 01524 582732 E-mail: jcurtis@lancaster.gov.uk Ref: JC



TOWN HALL, DALTON SQUARE, LANCASTER, LA1 1PJ 00 44 (0) 1524 582000 TUESDAY 14 MAY 2019

- ELSIE
- Home
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- Elections
- Forthcoming Key Decisions
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- Your MPs
- Your MEPs
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AGENDA ITEM

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

- [Meeting of Licensing Regulatory Committee, Thursday, 21st July 2011 1.00 p.m. \(Item 15.\)](#)

Report of Licensing Manager.

Minutes:

The licensing manager presented a report to enable members to consider a request from Mr. Bishop to waive the policy 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.

Prior to the meeting members had been given the opportunity to view the vehicle for which the waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat was being requested.

Members were advised that 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, could appeal to a magistrates' court. For this purpose, the council had established conditions attached to the grant of a hackney carriage vehicle licence.

The committee were advised that the standard licence condition provided as follows:

"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."

Members were reminded that the continued application of the above licence condition had recently been the subject of a consultation process following its approval by the committee last September. The consultation had ended in June, and a full report of the outcome of that consultation was due to be delivered to the committee in September.

Mr. Bishop had currently licensed the VW Caddy to carry five passengers, one of the passengers being a wheelchair user; it was advised that he had one of the mandatory wheelchair accessible vehicles. Mr. Bishop had requested to



make representations to the committee, as he would like to add two extra seats (which were 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 was attached to the report for members' information.

It was advised that Mr. Bishop had, at the suggestion of the licensing manager, added some additional safety measures to the vehicle. The vehicle had a rear hatch/door which could be opened from the inside of the vehicle, and was clearly marked 'Emergency Exit'. This would allow passengers 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.

Members were advised of some of the issues which may arise from the grant of this licence; these were outlined in the report in detail.

Mr. Bishop was in attendance at the meeting and made representations on behalf of his request and to respond to some of the points outlined in the report. He also answered questions from members regarding the vehicle.

Members were asked to consider whether they were 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.'

If members were minded to approve this request, the licensing manager would like the committee to authorise the start of 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 license an identical vehicle can be dealt with by officers as an automatic grant.

It was proposed by Councillor Redfern and seconded by Councillor Dixon:-

- "(1) That Mr. Bishop'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 with regard to the VW Caddy Maxilife be approved.
- (2) That the committee authorise the start of an approved list of vehicles, and that the VW Caddy Maxilife with these exact specifications be added to this list, in order that any future requests to license an identical vehicle could be dealt with automatically."

Upon being put to the vote 7 members voted in favour of the proposition, with 1 abstention, whereupon the chairman declared the proposition to be carried.

Resolved:

- (1) That Mr. Bishop'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 with regard to the VW Caddy Maxilife be approved.
- (2) That the committee authorise the start of an approved list of vehicles, and that the VW Caddy Maxilife with these exact specifications be added to this list, in order that any future requests to license an identical vehicle could be dealt with automatically.

Supporting documents:

- [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, item 15.](#) PDF 69 KB
- [Appendix 1, item 15.](#) PDF 41 KB

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**

21ST 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."
- 1.5 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.
- 1.6 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.
- 1.7 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.
- 1.8 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.
- 1.11 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	Contact Officer: Wendy Peck
None	Telephone: 01524 582317
	E-mail: wpeck@lancaster.gov.uk
	Ref:

LICENSING REGULATORY COMMITTEE

17TH NOVEMBER 2011

Mr Howarth was in attendance at the meeting and made representations to the committee. He also responded to some of the points raised in the report in support of his request.

The committee asked questions regarding the gaps in the floor of the vehicle which were left exposed when the seat was in the tipped position. They queried whether passengers could get their shoes caught in the gaps. Mr Howarth advised the committee that he had previously operated two of the same vehicles before the rules had changed and that it had never happened in the past.

Members discussed the possibility of fitting a handle to the inside of the rear hatch/door which was capable of being opened from the inside of the vehicle, and that it be clearly marked as an emergency exit. Mr Howarth agreed that if members were minded to approve his application he would be willing to include these additional safety features.

It was proposed by Councillor Burns and seconded by Councillor Hill: -

- "(1) That Mr Howarth's request for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat be approved, subject to the inclusion of the additional safety features as set out below:

That a handle be fitted to the inside of the rear hatch/door which was capable of being opening from inside of the vehicle, and that it be clearly marked as an emergency exit.

- (2) That the VW Touran with these exact specifications be added to the list of approved vehicles, provided that the vehicle was to operate as a private hire vehicle only."

By way of a friendly amendment to (1) Councillor Hill proposed:

"That (1) be revised to read as follows:

That Mr Howarth's request for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat be approved, subject to the inclusion of the additional safety features as set out below:

That a handle be fitted to the inside of the rear hatch/door which was capable of being opening from inside of the vehicle, and that it be clearly marked as an emergency exit.

That any other safety features that the Licensing manager decides are appropriate be included."

There being no seconder, the amendment was deemed to have failed.

Members then voted on the original proposal.

Upon being put to the vote, 7 members voted in favour of the proposition, with 1 against, whereupon the vice-chairman declared the proposition to be carried.

Resolved:

- (1) That Mr Howarth's request for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat be approved, subject to the inclusion of the additional safety features as set out below:

That a handle be fitted to the inside of the rear hatch/door which was capable of being opening from inside of the vehicle, and that it be clearly marked as an emergency exit.

- (3) That the VW Touran with these exact specifications be added to the list of approved vehicles, provided that the vehicle was to operate as a private hire vehicle only.

LICENSING REGULATORY COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1976**

**PRIVATE HIRE 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**

17th NOVEMBER 2011

Report of the Licensing Manager

PURPOSE OF REPORT

Mr Mark Howarth is the proprietor of a private hire vehicle 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 requirement for Mr Howarth with regard to the VW Touran and for any other vehicles of the same model with identical specifications that may be presented for licensing as a private hire vehicle 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 private hire vehicle under the Act of 1976 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 private hire 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."

The above condition was introduced on the grounds of the safety and comfort of the travelling public.

- 1.4 On 29th September 2011 Mr Howarth applied for and was granted a private hire licence for the VW Touran to carry a maximum number of 4 passengers. The vehicle is actually manufactured to carry 6 passengers, however access to the rear seats is impeded, this does not comply with our policy.
- 1.5 Mr Howarth subsequently wrote to the licensing department in order to make representations to this Committee, as he would now like the vehicle to be licensed to carry 6 passengers. A copy of Mr Howarth's letter is attached at appendix 1 to this report.
- 1.6 Members may recall that a similar request was made by a proprietor of a VW Caddy, and was considered by this committee in September. That request was approved, however that vehicle was different from this one in several relevant ways. Firstly, the vehicle had room to carry luggage even with the full compliment of seats. The luggage space in the vehicle being presented today is very limited with the extra 2 seats in place. In fact the actual size of the rear luggage space with the seats in place is 300mm deep by 960mm wide. The applicant in the previous case also, at the suggestion of the licensing manager added some additional safety measures to the vehicle. The vehicle had a rear hatch/door which was capable of being opened from the inside of the vehicle, and was clearly marked 'Emergency Exit'. This is to allow passenger in the rear row of seats to egress the vehicle through the back hatch, without having to move a passenger in front of them, in case of emergency. This was achievable in that particular vehicle as the rear row of seats folded down on to them selves, thus lessening the height that the passenger would have to climb over to evacuate the vehicle, there is also a void behind the rear seats that the passengers can climb into to operate the emergency exit door. However the vehicle presented today is not the same design as that one and access through the rear would be extremely difficult if not impossible.
- 1.7 If the vehicle is approved it would be added to the list of approved vehicles so that future applications to licence an identical vehicle will be dealt with by officers as an automatic grant, however members should at this point be aware of the condition attached to hackney carriage vehicles which clearly this vehicle could not comply with, and whilst this particular application is for a licence to be granted for a private hire vehicle, the condition as set out below needs to be considered whilst making a decision whether to grant the licence and allow the vehicle to be added to any approved list.

"Hackney carriage vehicles should be capable of carrying one average size piece of luggage per passenger. For the purpose of these conditions, average size luggage is deemed to be H48cm, W71cm, D19cm."

This condition applies to hackney carriage vehicles only, as all hackney carriage vehicles can be hired on the spot, and should be capable of carrying the full compliment of passengers and luggage, whereas a private hire vehicle is pre booked, and at the time of booking it can be determined whether or not the vehicle is suitable for the needs of the customer.

1.9 Mr Howarth 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, taking into account that 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,' in this instance would probably not be viable.

2.2 If members are minded to approve this request, careful consideration should be given to whether this vehicle is also suitable to be licensed as a hackney carriage vehicle, as clearly the luggage space would not comply with the requirements relating to the carriage of luggage by hackney carriage vehicles. If approved the vehicle will be added to the approved list so that future requests to licence an identical vehicle can be dealt with by officers as an automatic grant. Officers would recommend that if approved, this approval should only apply to private hire vehicles.

<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>None.</p>	
<p>FINANCIAL IMPLICATIONS</p> <p>Financial Services have not been consulted as there are no financial implications.</p>	
<p>LEGAL IMPLICATIONS</p> <p>Under Section 48(7) of the Local Government (Miscellaneous Provisions) Act 1976 any person aggrieved by a condition attached to a private hire vehicle licence has a right to appeal to the Magistrates Court within 21 days of the grant of the licence. Mr Howarth will not have the right to appeal any decision not to waiver the conditions, as the licence was granted on the 29th September 2011.</p>	
<p>BACKGROUND PAPERS</p> <p>None</p>	<p>Contact Officer: Wendy Peck Telephone: 01524 582317 E-mail: wpeck@lancaster.gov.uk Ref: WP/DWE</p>

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE AND HACKNEY CARRIAGE VEHICLE LICENSING - REQUEST FOR A WAIVER OF POLICY REQUIREMENT THAT ALL VEHICLES MUST PROVIDE DIRECT ACCESS AND EGRESS WITHOUT THE NEED TO TIP OR FOLD SEATS.

Committee received the report of the Licensing Manager to enable Members to consider a request from Rayrigg Motors, the supplier of vehicles to be used as hackney carriage and private hire vehicles in Lancaster, for a waiver in respect of the Fiat Scudo (9 seat) of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat.

Prior to the meeting, Members had viewed a Fiat Scudo (9 seat) vehicle.

It was reported that a request had been made by Rayrigg Motors that they make representations to the Committee regarding permitting the Fiat Scudo to be licensed to carry 8 passengers. This would provide certainty when the vehicle was offered for sale to the trade.

The vehicle did not allow direct access and egress to the rear seats without the need to tip or fold a seat and fell outside the current specifications required by the Licensing Policy. If approved, the vehicle would be added to the list of approved vehicles so that future applications to licence an identical vehicle would be dealt with by officers as an automatic grant.

It was proposed by Councillor Kerr and seconded by Councillor Margaret Pattison:

"That the standard requirement that all passengers should have direct access and egress without having to tip or fold seats be waived in relation to the Fiat Scudo (9 seat) vehicle, as presented to the Committee by Rayrigg Motors, and for any other vehicle of the same model with identical specifications that may be presented for licensing as a private hire or hackney carriage vehicle in the future."

Upon being put to the vote, 6 Members voted in favour of the proposition and 2 against, whereupon the Chairman declared the proposal to be carried.

Resolved:

That the standard requirement that all passengers should have direct access and egress without having to tip or fold seats be waived in relation to the Fiat Scudo (9 seat) vehicle, as presented to the Committee by Rayrigg Motors, and for any other vehicles of the same model with identical specifications that may be presented for licensing as a private hire or hackney carriage vehicle in the future.

LICENSING REGULATORY COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1976**

**PRIVATE HIRE AND 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**

14TH FEBRUARY 2013

Report of the Licensing Manager

PURPOSE OF REPORT

To enable members to consider a request from Rayrigg Motors the supplier of vehicles to be used as hackney carriage and private hire vehicles in Lancaster for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat in relation to the Fiat Scudo 9 seater vehicle.

The report is public

RECOMMENDATIONS

The Committee is requested to determine in the light of the representations made, whether to allow the request for a waiver of the standard requirement that all passengers should have direct access and egress without having to tip or fold seats, in relation to the Fiat Scudo 9 seater vehicle as presented today by Rayrigg Motors, and for any other vehicles of the same model with identical specifications that may be presented for licensing as a private hire or hackney carriage vehicle in the future.

1.0 Introduction

1.1 Under sections 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976, a District Council may attach to the grant of a licence of a hackney carriage and private hire vehicle 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 private hire and 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."

The above condition was introduced on the grounds of the safety and comfort of the travelling public.

1.4 On 14th January 2013 a request was made by the Directors of Rayrigg Motors that they be permitted to submit some vehicles for consideration of their suitability to be licensed as hackney carriage and private hire vehicles in the district, so that if approved they can be added to a list of approved vehicles. This will provide certainty when the vehicles are offered for sale to the trade. These vehicles fall outside of the current specifications required by the Licensing Policy.

1.5 Mr Ball of Rayrigg Motors subsequently wrote to the licensing department in order to make representations to this Committee, as he would like the Fiat Scudo to be permitted to be licensed to carry 8 passengers. This particular vehicle does not allow direct access and egress to the rear seats without the need to tip or fold a seat

1.6 If the vehicle is approved it would be added to the list of approved vehicles so that future applications to license an identical vehicle will be dealt with by officers as an automatic grant.

1.7 Mr Ball has been invited to attend the meeting to make representations and answer questions 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 request for a waiver of the standard licence requirement on access and egress, and if granted whether modifications to the vehicle would be required which would mean that the rear door/hatch would be capable of being opened from inside the vehicle, and would be clearly marked 'Emergency Exit,' These have been requirements of other vehicles without direct access that have been approved by this committee.

2.2 If approved the vehicle will be added to the approved list so that future requests to license an identical vehicle can be dealt with by officers as an automatic grant.

2.3 Members' only consideration when considering this request should be public safety and comfort. Financial implications can not be a consideration.

**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

Ray Rigg Motors are not applying for the grant of a licence and therefore would have no right of appeal against refusal or any conditions attached; however any policy could be the subject to a Judicial Review.

BACKGROUND PAPERS

None

Contact Officer: Wendy Peck
Telephone: 01524 582317
E-mail: wpeck@lancaster.gov.uk
Ref: WP

LICENSING REGULATORY COMMITTEE

28TH MARCH 2013

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - PRIVATE HIRE AND 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

Committee received the report of the Licensing Manager to enable Members to reconsider the decision made at its meeting on 14th February 2013, following a request from Rayrigg Motors, the supplier of vehicles to be used as hackney carriage and private hire vehicles in Lancaster, for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat in relation to the Fiat Scudo (9 seat) vehicle.

Members had viewed the vehicle prior to the meeting.

It was reported that Council Procedure Rules provided that a motion from a quorum of the Committee was required to rescind a previous decision taken within the past six months. Following concerns raised by officers to the Chairman about the decision made on 14th February 2013 to allow the vehicle to be placed on the approved list of vehicles, even though it did not comply with the policy on access and egress and no modifications had been made to facilitate this, the required number of Members had indicated that they would wish to review the issue.

Under s47 and s48 of the Local Government (Miscellaneous Provisions) Act 1976, a district council may attach to the grant of a licence of a hackney carriage and private hire vehicle 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.

Members were advised that the Council's standard licence condition attached to the grant of a private hire and hackney carriage vehicle licence stated:

"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."

It was reported that the condition had been introduced on the grounds of the safety and comfort of the travelling public and, in particular, to ensure that, in the event of an accident, all passengers would, so far as possible, have an unimpeded exit route from the vehicle.

It was noted that a vehicle should be adapted to fit the policy rather than a policy adapted to fit the vehicle; an applicant should be able to demonstrate what steps they had taken to overcome the problems which had caused a policy to be implemented in the first place.

It was reported that the vehicle could be adapted to comply with the Council's current policy. Even with the rear door capable of opening from inside the vehicle, officers failed to see how a passenger would get to that door in an emergency situation. Whilst it was impossible to remove all risk, the licensing authority had a responsibility to reduce it.

Mr. Tony Ball of Rayrigg Motors was present at Committee to answer Members' questions. Committee also considered a letter from Fiat Group Automobiles UK Ltd, which had been submitted by Rayrigg Motors.

The Licensing Manager, Licensing Enforcement Officer and Mr. Ball left the meeting at this point whilst Members considered the options before them.

It was proposed by Councillor Dixon and seconded by Councillor Margaret Pattison:

"That the decision made by Committee on 14th February 2013 that the standard requirement that all passengers should have direct access and egress without having to tip or fold seats be waived in relation to the Fiat Scudo (9 seat) vehicle, as presented to the Committee by Rayrigg Motors on that day and for any other vehicle of the same model with identical specifications that may be presented for licensing as a private hire or hackney carriage vehicle in future, as withdrawn."

Upon being put to the vote, 4 Members voted in favour of the proposition, with 2 abstentions, whereupon the Chairman declared the proposal to be carried.

Resolved:

That the decision made by Committee on 14th February 2013 that the standard requirement that all passengers should have direct access and egress without having to tip or fold seats be waived in relation to the Fiat Scudo (9 seat) vehicle, as presented to the Committee by Rayrigg Motors on that day and for any other vehicle of the same model with identical specifications that may be presented for licensing as a private hire or hackney carriage vehicle in future be withdrawn.

The Licensing Manager, Licensing Enforcement Officer and Mr. Ball returned to the meeting at this point.

Chairman's Summary of the Decision:

The Committee wishes to maintain its policy that requires all passengers to have direct access and egress without having to tip or fold seats. The Fiat Scudo (9 seater) as

presented to the Committee at its meeting in February 2013 does not meet this requirement, and the Committee therefore withdraws the waiver previously given, and confirms that the vehicle (as presented) will not in future be licensed as a hackney carriage or private hire vehicle for eight passengers.

Chairman

(The meeting ended at 5.55 p.m.)

**Any queries regarding these Minutes, please contact
Jane Glenton, Democratic Services - telephone (01524) 582068, or email
jglenton@lancaster.gov.uk**

LICENSING REGULATORY COMMITTEE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1976**

**PRIVATE HIRE AND 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**

28th March 2013

Report of the Licensing Manager

PURPOSE OF REPORT

To enable members to reconsider the decision made in February following a request from Rayrigg Motors the supplier of vehicles to be used as hackney carriage and private hire vehicles in Lancaster for a waiver of the policy requirement that all passengers should have direct access to doors without having to tip or fold a seat in relation to the Fiat Scudo 9 seater vehicle.

The report is public, but in making their decision the Committee may wish to consider excluding the press and public on the basis that exempt information in the form of legal advice (paragraph 5 of Schedule 12A to the Local Government Act 1972) may be given

RECOMMENDATIONS

The Committee is requested to reconsider the decision made in February to allow the request for a waiver of the standard requirement that all passengers should have direct access and egress without having to tip or fold seats, in relation to the Fiat Scudo 9 seater vehicle as presented by Rayrigg Motors, and for any other vehicles of the same model with identical specifications that may be presented for licensing as a private hire or hackney carriage vehicle in the future.

If the Committee's decision is to uphold its previous waiver of the access and egress requirement, Members are asked to consider whether the current standard requirement should be dispensed with.

1.0 Introduction

- 1.1 The Council Procedure Rules provide that in order to rescind a previous decision taken within the past six months, a motion from a quorum of the Committee is required. Following concerns raised by officers to the chair of the Committee about the decision made in February to allow this vehicle to be placed on the approved list of vehicles, even though it does not comply with the policy on access and egress and no modifications have been made to facilitate this, the required number of members indicated that they would wish to review this issue
- 1.1 Under sections 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976, a District Council may attach to the grant of a licence of a hackney carriage and private hire vehicle 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 private hire and 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."
- The above condition was introduced on the grounds of the safety and comfort of the travelling public, and in particular to ensure that, in the event of an accident, all passengers would so far as possible have an unimpeded exit route from the vehicle.
- 1.4 On 14th January 2013 a request was made by the Directors of Rayrigg Motors that they be permitted to submit some vehicles for consideration of their suitability to be licensed as hackney carriage and private hire vehicles in the district., so that if approved they can be added to a list of approved vehicles. This will provide certainty when the vehicles are offered for sale to the trade. These vehicles fall outside of the current specifications required by the Licensing Policy.
- 1.5 Mr Ball of Rayrigg Motors subsequently wrote to the licensing department in order to make representations to this Committee, as he would like the Fiat Scudo to be permitted to be licensed to carry 8 passengers. This particular vehicle does not allow direct access and egress to the rear seats without the need to tip or fold a seat
- 1.6 Members subsequently approved this vehicle which meant that it would be added to the list of approved vehicles so that future applications to license an identical vehicle will be dealt with by officers as an automatic grant.
- 1.7 The licensing manager felt sufficiently concerned about this decision that she requested a meeting with the chair of the Licensing Regulatory Committee to explain these concerns and the implications for the future operation of the standard licence condition. The licensing manager felt that members may not have fully understood the reasons behind the policy on access and egress and may not therefore have made a sufficiently informed decision. Further County Council share this concern as they do not allow vehicles that can not provide direct access to fulfil school contracts.

- 1.8 Members originally approved the policy on access and egress on the grounds of public safety to ensure that, so far as possible in the event of an accident, passengers would have an unimpeded exit route from the vehicle. A vehicle should be adapted to fit the policy rather than a policy adapted to fit the vehicle. In any case an applicant should be able to demonstrate what steps they have taken to overcome the problems which caused a policy to be implemented in the first place.
- 1.9 This vehicle could be adapted to comply with our current policy, and the only reason for not carrying out an adaptation is financial, and not public safety, as it should be.
- 1.10 Even with the rear door capable of opening from inside the vehicle, officers fail to see how a passenger, in an emergency situation would get to that door. Whilst it is impossible to remove all risk, we have a responsibility as the licensing authority to reduce it.
- 1.11 If members are still minded to approve this vehicle following reconsideration of this matter, the licensing manager would like to request that the policy be reviewed to remove the section on direct access and egress. If a waiver is to be granted for a vehicle such as this which clearly does not comply with the access and egress arrangements, then there would seem to be no reason not to grant a waiver for any other vehicle which does not comply, and therefore little purpose in maintaining the requirement.
- 1.12 Mr Ball has been invited to attend the meeting to make representations and answer questions. 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 whether, after reconsideration of this matter, they are still satisfied to allow the request for a waiver of the standard licence requirement on access and egress, in spite of the licensing manager's concerns, or whether they would like to rescind the decision made in February in relation to this vehicle.
- 2.2 Members' only consideration when considering this request should be public safety and comfort. Financial implications can not be a consideration.
- 2.3 If members, after reconsideration, are still minded to approve this waiver the licensing manager would like to request that the policy be amended to remove the requirement of direct access and egress to all passenger seats, as it would seem to serve no purpose, and would be hard to justify in any future challenge if a waiver is granted to this type of vehicle where there clearly is not any direct access and egress to the rear passenger seats.

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

<p>None.</p>

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

Ray Rigg Motors are not applying for the grant of a licence and therefore would have no right of appeal against refusal or any conditions attached; however any policy could be the subject to a Judicial Review.

BACKGROUND PAPERS

None

Contact Officer: Wendy Peck

Telephone: 01524 582317

E-mail: wpeck@lancaster.gov.uk

Ref: WP

Approved List (History)

- LRC 21st July 2011 – VW Caddy Maxilife received a waiver of the standard requirement that all passengers should have direct access and egress without having to tip or fold seats and the VW Caddy Maxilife with these exact specifications be added to the start of an approved list, in order that any future requests to licence an identical vehicle could be dealt with automatically. (Not resolved whether includes hackney carriage or private hire vehicle)
- LRC 17th November 2011 - VW Touran received a waiver to the condition by Members on the basis that a handle was to be fitted to the inside rear hatch/door which was capable of being opened from inside the vehicle, and that it be clearly marked as an emergency exit. This exact specification of vehicle was to be added to the approved list but could only operate as a private hire vehicle.
- LRC 14th February 2013 - Fiat Scudo (9 seat) Members waived Access & Egress condition after vehicle presented by Rayrigg Motors and for any other vehicle of the same model with identical specifications may be presented for licensing as a private hire or hackney carriage vehicle in the future.
- LRC 28th March 2013 - Fiat Scudo (9 seat) Members withdrew previous waiver granted at meeting of 14th February 2013 following a motion from a quorum of the Committee to rescind previous decision.

Justices Reasons

S. Barlow and others -v- Pembrokeshire County Council
Haverfordwest Magistrates' Court 17^h March 2009

Previous magistrate's courts accepted jurisdiction as the correct process of appeal under Section 47(3) and 48(7) of the Local Government Miscellaneous Provisions Act 1976. We heard these appeals by re-hearing evidence and putting ourselves in the position of the Borough Council, the licensing authority in determining the appeals.

It is agreed this morning by both parties that this court can confirm, amend or remove conditions. It was also agreed by both parties that in arriving at such decisions due consideration should be given as to whether each is reasonably necessary in accordance with Local Government Miscellaneous Provisions Act 1976 s.47(l) and 48(2).

We would like to thank Mr Spackman and Mr Maddox for their presentation of the case and all witnesses. Arguments were provided by appellants and respondent and a number of relevant legal authorities were quoted. Minutes of Local Authority Licensing Committees, Trade meetings and Best Practice Guidelines were provided and these have also been considered.

We have heard evidence from Mr Tulley, Miss Telford , Mr Barlow, Mr Slack. Mr Jenkins, Mr Wilson, Mr Lemon, and considered written evidence by Mr Hollins.*. We also inspected the seating arrangement of a VW Sharan.

We then considered the three conditions separately.

*We do not agree that Miss Telford had no grounds for appeal since she is affected by both age and rear access conditions.

Age Limit

The evidence justifying the age limit seemed to suggest this decision was largely based on the assumption that vehicles over five years of age would have less safety features and be in a worse condition. No specific evidence was produced that would justify this assumption and indeed many older vehicles have the inbuilt safety features mentioned. We consider that each vehicle should be fit for purpose, irrespective of age and the relevant authority testing procedure should determine this.

Although not the subject of these appeals we do endorse the Council in its condition for

MOT tests for vehicles over eight years of age. However, we do not consider condition 5 (h) reasonably necessary but do consider it reasonable and necessary to amend this to insist that any vehicle between 5 and 8 years of age must be tested twice per year in accordance with government guidelines.

Rear Access

The argument to justify the removal of a seat seems to be based on safety and convenience. The evidence seems to be somewhat lacking, other than one incident some 20 years ago referred to by Mr Davies on an unrelated vehicle.

On the other hand we did hear evidence from at least two appellants that there was an increased risk to passengers where a seat was removed.

The vehicle complies with UK Construction and Use Requirements and EU regulations for the number of passengers it was designed to hold. We believe it is reasonable for the vehicle to be licensed for the number of seats for which it is designed.

Furthermore on our personal experience in inspecting the VW Sharan we do not consider on convenience grounds that there is any unreasonable hardship in entering or leaving the vehicle with its full complement of seats as designed.

Therefore we do not consider this condition 5 (g) reasonably necessary and we are going to remove this condition.

Trailer Requirement

No evidence was produced to explain why the amended condition was introduced. The reason proposed is public safety but no examples of difficulty or complaints have been reported.

We agree in essence with the stringent conditions imposed by the Licensing Authority in Appendix 2 of the standard conditions including the provision that luggage should be insured whilst in a trailer. Our exception is the requirement stipulated under 15.0 regarding the braking system appendix 2,15.1.

Trailers are covered by Construction and Use Regulations and regulations are laid down by a vehicles' manufacturer.

Therefore we find the braking system condition not reasonably necessary providing regulations as above are adhered to by both vehicle and trailer.

We therefore remove condition 15 under appendix 2.

In relation to these appeals before us we apply as appropriate our findings detailed above to all appellants.

Whilst we have not considered in detail the appeals of Mr Mayhew and Mr King the evidence submitted to us was such that we believe our findings should also apply to them.

To summarise we have done the following:

1. Amended the age condition
2. Removed the rear access condition
3. Amended the trailer condition

In view of our decisions we recommend the Local Authority Licensing Committee reconsider their policies

GT Tours -v- Macclesfield Borough Council**Case No 3631133****Judgement of the Magistrates: 7 March 2007**

Mr Trevena appeals a decision of Macclesfield Borough Council made on 17 May 2006 to apply conditions to a licence in respect of an eight-seater VW minivan intended for use as a hackney carriage.

The Licensing Committee determined that the vehicle should not be licensed for eight passengers. It could be licensed for seven passengers, and for that purpose one of a middle row of seats should be removed.

Mr Trevena appeals to us on the grounds that these conditions are not reasonably necessary.

We hear this appeal by way of a re-hearing of evidence as we put ourselves in the shoes of the Borough Council, as licensing authority in determining this appeal.

We had the benefit of a number of relevant legal authorities, skeleton arguments provided by the appellant and respondent, and we heard evidence in person from the council's licensing officer and their Health and Safety adviser.

Mr Trevena gave evidence, as did his co-director Rebecca Hilton.

We considered full written statements tendered in advance of the hearing. We also inspected the vehicle.

We thank Mr Hercock and Mr Maddox for the clear and succinct way in which they presented their cases.

In essence, Mr Trevena says that the conditions imposed by the Council are unacceptable. His vehicle is a new, modern purpose-built multi-person carrier with modern safety features. He also argues that the Council's current policy and its detailed specifications are unclear, out of date, and have been superseded by more up-to-date guidance from Government. He also points to an inconsistency in the Council's

approach to licensing other vehicles, whose safety may be less well-developed than the VW vehicle which he wishes to have licensed.

The Council argues that their principal and over-riding consideration is public and user safety and, to a lesser extent, passenger comfort. They had a clear duty of care to ensure that passengers and [others?] were appropriately protected and their policy was designed to do this.

We note that the detailed specification for vehicles for private hire do not appear to have been formally reviewed by the Council since at least 1994 and - as per Mr Janes' evidence - somewhat longer.

Such material as is published does not appear to address the most up-to-date MPV vehicles. That original specification appears to be based upon an estate vehicle converted to seat more passengers. Their approach also places great weight on guidance from RoSPA, confirmed in 1999 and subsequently re-confirmed in 2003 and 2006.

It appears that Mr Janes exercises delegated authority to determine licence applications, and tests each case on its merits against, inter alia, the specification of the RoSPA guidelines. He gave evidence that from time to time he exercised his own discretion in applying the detailed policy and was, therefore, flexible in the way in which he applied it, this subject to an appeal to the relevant Council Committee.

However, in October 2006 the Government consulted and adapted new guidance covering the essence of this appeal, namely MPVs. Significantly, RoSPA were formal consultees.

We can take account of this latest Guidance; the Council could not when they heard Mr Trevena's first appeal. The new guidance from the Department for Transport specifically refers to MPVs.

In Para 20 it is clear that the Department say that it may be too restrictive to automatically rule out considering MPVs or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

The VW Transporter is a modern purpose-built vehicle which provides a number of alternative methods of egress or access to the vehicle at its full capacity of eight seats. It has received UK and EU Type Approval. It is a standard production vehicle.

In the light of this new guidance, our finding is that the vehicle which Mr Trevena seeks to license does meet all reasonable specifications and therefore should be licensed as such for eight passengers.

We would expect the Council to complete the urgent review of its policy which it called for in May 2006. Having agreed such a policy, it should be made available publicly to all who are interested, in a clear and comprehensive form.

Transcript of handwritten Judgement from Magistrates: 7 March 2007

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