

# **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**

**17 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 29<sup>th</sup> 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 complement 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.

- 1.8 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.

### 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. Mr Howarth will not have the right to appeal any decision not to waive the conditions, as the licence was granted on the 29 September 2011.

### BACKGROUND PAPERS

None

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