

# LICENSING REGULATORY COMMITTEE

## **Addition of a New Condition to be imposed on all Hackney Carriage Vehicles Licences upon Renewal 5<sup>th</sup> June 2014**

### **Report of Licensing Manager**

#### **PURPOSE OF REPORT**

To enable Members to consider imposing a new condition on hackney carriage vehicle/proprietor licences, to take effect on next renewal, and as a consequence to approve an amendment to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing document to reflect this.

**This report is public.**

#### **RECOMMENDATIONS**

**Members are requested to approve the proposed new condition in relation to hackney carriage vehicle/proprietor licences, to take effect upon renewal and, as a consequence, to approve the following amendment the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing to reflect this –**

**The proprietor of the vehicle shall keep a complete and accurate record of the name of the person driving the vehicle at any time. This information must be produced upon request to an authorised officer or constable.**

#### **1.0 Report**

- 1.1 Under 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 the district council may consider reasonably necessary.
- 1.2 Currently there is not a condition attached to a hackney carriage vehicle licence which requires the proprietor to keep records of the person driving the vehicle at any one time.
- 1.3 Clearly there is a public safety issue created by this omission as the information could be crucial if the vehicle had been involved in an incident. It is also vital that the proprietor can show due diligence in case of complaint and that he/she has done the correct checks and assured himself/herself that the person driving the hackney carriage vehicle actually holds a hackney carriage driver's licence issued by this council and is insured to drive the vehicle.

- 1.5 Members may recall that this item was on the agenda for this committee on the 27<sup>th</sup> March at which time it was deferred due to an email which members had received from Mrs Donna Short from the National Private Hire Association suggesting that any such condition would be unlawful.
- 1.6 Mrs Short states in her email, 'Whilst I can see why the licensing department wishes to put forward this condition of licence, they cannot impose the condition on the hackney carriage vehicle licence – quite simply, the vehicle cannot keep records; only the proprietor or driver.'
- 1.7 If this were the case, in officers' opinion no condition could be attached to a vehicle/proprietor licence, as clearly the vehicle cannot apply signs to itself or ensure that there is a first aid kit or fire extinguisher available; this would have to be done by the proprietor. A vehicle licence and a proprietor's licence are not separate licences; they are one and the same thing. There is no difference between a proprietor ensuring that the vehicle has the correct signs, or that a first aid kit and a fire extinguisher are in the vehicle, and ensuring that an up to date log of who is driving the car at any time is in the vehicle.
- 1.8 Mrs Short goes on to say, 'The fact of the matter is that hackney carriage proprietors (or drivers, come to that) do not need to hold an operator licence (please see **Brentwood –v- Gladen** attached); therefore they cannot be required to keep records. To our knowledge there is no other licensing authority in the UK that has been able to uphold this requirement, as the legislation does not allow them to impose it'.
- 1.9 This, in officers' opinion, is incorrect, as the case law referred to is in relation to whether a person using a hackney carriage vehicle to carry out private hire bookings would require an operator's licence, clearly they do not, and this condition would not require them to have one. The condition is not requiring proprietors to keep a log of journeys; just of any person driving the vehicle at any given time.
- 1.10 The Local Government (Miscellaneous Provisions) Act 1976 Section 47 provides that:-
- (1) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary.
- (2) Without prejudice to the generality of the foregoing section a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.
- (3) Any person aggrieved by any conditions attached to such a licence may appeal to a magistrates' court.
- 1.11 Mrs Short seems to be suggesting that only conditions in relation to vehicle appearance and condition etc. can be attached to the vehicle/proprietors licence; however, that in officers' opinion would make a nonsense of the 2 separate provisions set out in section 47 above.
- 1.12 Members are therefore requested, in the interest of public safety, to approve the new condition to be attached to hackney carriage vehicle licences upon renewal and the

amendment to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing to reflect this as set out above.

- 1.14 If members are minded to approve the amendment the condition would apply upon first renewal of the vehicle licence.

## 2.0 Conclusion

Members are requested to approve the new condition to be attached to hackney carriage vehicle licences upon renewal and the proposed change to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing to reflect this.

### **CONCLUSION OF IMPACT ASSESSMENT**

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

The Rules, Regulations and Procedures are in place to protect the public.

The proposed changes do 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 arising from this report.

### **LEGAL IMPLICATIONS**

Anyone aggrieved by a condition attached to a licence can appeal to the Magistrates' Court.

### **BACKGROUND PAPERS**

None.

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