



Walsall Council

REPORT OF THE HEAD OF COMMUNITIES AND PUBLIC PROTECTION

LICENSING AND SAFETY COMMITTEE

9 JULY 2014

AGE POLICY: REPLACEMENT PRIVATE HIRE VEHICLES

1.0 Summary of report

- 1.1 Following a meeting of the Licensing and Safety Committee on the 16 April 2014 a request was made by the Walsall Private Hire Association to amend part of the vehicle age policy for private hire vehicles. They have requested that any vehicle providing that it is of a newer age (Taken from the first date of registration) than the vehicle it is replacing, be subsequently approved for licensing. Currently all private hire vehicles must be under the age of five years of age at the first time of licensing (6 years for minibuses).

2.0 Recommendations

- 2.1 The committee is asked to consider the information contained in the report, and to determine whether a licensed private hire vehicle is permitted to be replaced at any time, by any vehicle of a newer age (Taken from first date of registration) or:
- 2.2 Wait for the government to formally consider the recommendations and draft bill proposed by The Law Commission following its fundamental review of the Hackney Carriage and Private Hire legislation that operates throughout England and Wales. However, the government has now stated that although it will consider the recommendations of the commission, there will be no changes to the licensing regime until after the next general election in 2015. The government has no plans to introduce a dedicated taxi bill in the final parliamentary session.
- 2.3 If committee are minded to agree to the recommendation in 2.1, do members require a subsequent report to be produced in relation to consideration of an increased vehicle testing regime.

3.0 Background information

- 3.1 At a meeting of this committee on the 16 April 2014 a request was made by Walsall Private Hire Association to amend part of the private hire vehicle age policy. They have requested that any vehicle of a newer age than the licensed vehicle it is replacing, be approved for licensing. This would mirror the current hackney carriage vehicle condition. A supporting letter from the association is given as **Appendix 1.**
- 3.2 Section 1.12 of the private hire vehicle licence conditions states that when a saloon car/MPV has not been licensed by Walsall MBC, or if it has previously been licensed by Walsall MBC and the licence allowed to expire for a period of more than 28 days other than prior arrangement in writing with the Licensing Office, then in each case the vehicle must be five years of age or under (from the first date of registration or manufacture) depending on which is earlier, in order for that vehicle to be licensed.
- 3.3 Once a saloon car/MPV has been licensed, it may continue to be licensed until it reaches ten years of age.
- 3.4 The age limit in respect of minibuses as private hire vehicles is six and twelve years respectively.
- 3.5 In respect of hackney carriage vehicles, Walsall M.B.C conditions of licence state that;
- (A) The grant of a hackney carriage vehicle licence is dependent on that vehicle being new and wheelchair accessible.
 - (B) The London style cab will not be licensed past 18 years from the registration date.
 - (C) The Euro cab i.e. Mercedes, Peugeot, Fiat etc will not be licensed past 15 years from the registration date.
- 3.6 Hackney carriage proprietors are also permitted by condition to replace their current licensed vehicle with a vehicle of a newer age (taken from date of first registration).
- ‘Existing Hackney Carriage Proprietors may replace their current licensed vehicle with a vehicle that is of newer age (taken from the date of first registration) provided that it complies with other specified conditions of licence as given’.
- 3.7 The rationale of this condition may relate to the cost implications of replacing hackney carriage vehicles since they must be wheelchair accessible. These vehicles will obviously cost more when new compared to the normal type of saloon/MPV used for private hire.

However, the Private Hire Association have always maintained that there is also a significant cost implication to them, should they have to replace their vehicle with another vehicle, that is compliant with the current policy.

- 3.8 Consequently, the Private Hire Association had also made representations on this issue to the previous portfolio holder responsible for Communities and Public Protection.
- 3.9 The decision taken to have differing age limits for types of hackney carriage vehicles may well have been taken in light of how the vehicles were manufactured. London style taxis have been specifically designed, developed and constructed over decades to meet the rigors and requirements solely for taxi trade use. They have greater manoeuvrability, aided by a low range turning circle (8m) and have been assembled uniquely.
- 3.10 London style taxis are purpose built and have a solid and separate chassis arrangement. The purpose designed body is then secured on to the chassis. These vehicles after speaking to a leading manufacturer, typically have a working life of between 10-11 years. However, this will ultimately depend on actual daily wear and tear.
- 3.11 Euro style vehicles are in effect vans that have been converted to carry passengers and are of the monocoque design. Manufacturers of these vehicles say that they typically have a life of between 6 – 9 years. Obviously this is dependent on day to day use. These vehicles are compliant with all UK safety requirements and have the same type approval in the majority of cases.
- 3.12 There are currently 718 licensed private hire vehicles. The age profile of the fleet is:
- | | | |
|---------------|---|-------|
| 1 year of age | = | 13 |
| 2 | " | = 25 |
| 3 | " | = 16 |
| 4 | " | = 49 |
| 5 | " | = 84 |
| 6 | " | = 159 |
| 7 | " | = 140 |
| 8 | " | = 94 |
| 9 | " | = 70 |
| 10 | " | = 56 |
| 11 | " | = 8 |
| 12 | " | = 4 |
- 3.13 As can be seen from the vehicle age profile 85.4% of the fleet is 5 years of age or over. In November 2011 when this matter was originally considered by the Licensing and Safety Committee this figure was 85%. The number of licensed vehicles over 9 years of age has

also risen. In 2011 there were 99, there are now 126. Years 11 & 12 relate solely to minibuses.

- 3.14 Given the information contained in 3.12 it is highly likely that if private hire vehicles can be replaced simply by a vehicle of newer age (and that vehicle is over 5 years of age) as requested by the trade, then significantly older vehicles will dominate the age profile of the fleet. This is the trend that has been set by the hackney carriage licensing regime as a consequence of this condition.
- 3.15 The following gives neighbouring authority policy on this matter.
- Birmingham C.C. must be under 8 years on initial app. No upper age limit provided vehicles pass compliance test.
 - Sandwell MBC must be less than 5 years on initial app. Licensed to 8 years unless in 'Exceptional Condition'.
 - Cannock D.C must be less than six years on initial app. No upper age limit provided vehicles pass compliance test.
 - Dudley MBC no age limit restrictions.
 - Wolverhampton C.C must be less than 10 years on initial app. Licensed to 12 years, unless vehicle has FSH, then physically inspected by Line Manager.
- 3.16 On the 21st April 2010 the committee resolved to reduce the frequency of vehicle testing. Vehicles less than three years of age would continue to be tested annually, vehicles over three years to be tested every six months.
- 3.17 **Appendix 2** gives a summary of pass and failure rates for both private hire and hackney carriage vehicles for the past 9 months. For the benefit of members, the figures relate to vehicles both under 3 and over 3 years of age, as this relates to the current vehicle testing frequency criteria. Members may also recall that this committee in September 2013 requested that these failure rates be made available to this committee in this format.
- 3.18 From Appendix 2 it can be seen that the overall pass rate for hackney carriage vehicles is 64.3% and 67.2% for private hire vehicles.
- 3.19 As would be expected the majority of failures (+97%) relates to vehicles that are over 3 years of age.
- 3.20 For information the main reasons for vehicles failing the testing criteria are:
- Lights
 - Brakes
 - Suspension
 - Tyres

- 3.21 If the age restriction is relaxed further as requested, this committee may subsequently wish to reconsider vehicle testing frequency, as it is highly likely given the current age profiles of the fleet, the actual age of licensed vehicles within the borough will significantly increase.
- 3.22 Even if a vehicle is not compliant with current policy, there is nothing to prevent a licence application being made, and the application being determined by the Licensing and Safety Committee on its own individual merits.

4.0 Resource considerations

- 4.1 **Financial:** Fee levels for private hire vehicle licences relate to whether they are under or over the age of 3 years at the point of licensing.

In light of the information in 3.12 it is highly unlikely that there would be any negative impact on licensing income.

- 4.2 **Legal:** Anyone aggrieved by any condition attached to the grant of a vehicle licence has a right of appeal to the Magistrates Court.

The Local Government (Miscellaneous Provisions) Act 1976 governs the issue and control of licences for private hire and hackney carriage vehicles, drivers and operators.

Section 48 of the Act allows councils to attach to the grant of a licence for private hire vehicles such conditions as they consider reasonably necessary.

Section 47 of the Town Police Clauses Act 1847 allows councils to attach to the grant of hackney carriage proprietors licence such conditions as they consider reasonably necessary.

The Best Practice Guidance issued by the Department for Transport for Taxi and Private Hire Vehicles in 2010 states in part that;

Age Limits: It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not licence vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles.

The case of R v Hyndburn Borough Council, ex parte Rauf and Kasim established that a Council can impose standard conditions as a matter of policy . The Council cannot however, fetter its discretion and refuse without such consideration as is appropriate, any application that does not comply with its conditions. The local Authority can refuse an application in line with its policy so long as it does not “shut its ears” to any application, either considered individually or an application which amounted to an application to change the policy as a whole.

In order to give some consistency to the exercise of the discretion to depart from the standard conditions, on the 4th March 2009 the Licensing and Safety Committee resolved that approval be given to the amendment to the private hire and hackney carriage conditions of licence as follows:-

‘Exceptional circumstances (set aside or amend standard conditions in particular cases without full amendment of conditions)

On a case by case basis and only in exceptional circumstances the Committee may resolve to set aside or amend the private hire and hackney carriage standard conditions where it is appropriate to do so. In any case, it will be appropriate to set aside or amend the standard conditions only in exceptional circumstances where to impose the standard conditions will lead to a result which the Committee considers wholly unjust and wholly unfair in the circumstances of the particular case falling for consideration.

The setting aside or amendment of the condition will be specific to that case alone. The standard conditions will otherwise remain in place subject to the Committees discretion to amend them in the usual manner’.

The committee should consider if the application satisfies the exceptional circumstances criteria as given.

The Committee has a wide and unfettered discretion to depart from the standard conditions. However, a sensible balance has to be struck between preserving the aim of the conditions, ensuring consistency and fairness and on the other hand, departing from the conditions where it is right to do so.

The exceptional circumstances envisaged by the Committee on passing the above resolution would arise from unforeseen events over which the driver had no control and which had an adverse impact on the circumstances of the driver. For example a failure to re-licence a vehicle following a bereavement, which understandably caused the driver not to attend to his affairs as he usually would, or a driver unable to re-licence his vehicle because it had been damaged and he was unable to repair the vehicle in time to licence it due to no fault of his own.

There is a difference between the considerations affecting standard conditions and applying a licensing policy. In cases falling for consideration under a policy each case must be considered on its own merits and the policy may be set aside where there are good, cogent and clear reasons for departing from policy.

4.3 **Staffing:** Nothing arising from this report.

5.0 Citizen impact

5.1 None.

6.0 Community Safety

6.1 Vehicles are inspected to a prescribed regime dependant on age and can be tested up to three times a year by statute.

6.2 With the advancement of technology in areas of electronic braking systems, air bag and seat belt restraint systems, electronic vehicle stability systems and advanced lighting systems consideration should be given to maintaining an up to date fleet.

7.0 Environmental Impact

7.1 Over recent years there has been a significant improvement in the minimisation of vehicle emission levels, due to technological advances. Local authorities have a statutory duty in respect of air quality and its monitoring. Consideration should be given to maintaining an up to date fleet.

8.0 Performance and risk management issues

8.1 None arising from this report.

9.0 Equality implications

9.1 None arising from this report.

10.0 Consultation

10.1 Neighbouring authorities.

11.0 Contact Officer

11.1. Steven Knapper– Principal Licensing Officer. Ext. 3073