

TELFORD & WREKIN COUNCIL

LICENSING COMMITTEE – 21ST OCTOBER 2008

**REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENCE
CONDITIONS**

REPORT OF THE REGULATION AND RESILIENCE MANAGER

1. PURPOSE

- 1.1 For Members to review the conditions of Licence for Hackney Carriage and Private Hire Licences.

2. RECOMMENDATIONS

2.1 Having considered all relevant information, for Members to decide upon a new set of conditions for the following Licences :

- 2.1.1 Hackney Carriages
- 2.1.2 Private Hire Operators
- 2.1.3 Private Hire Drivers
- 2.1.4 Private Hire Vehicles

3. SUMMARY

- 3.1 Section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976 [LG(MP)A 1976] allows licensing authorities to attach to the grant of Private Hire and Hackney Carriage Licences certain conditions that they consider reasonably necessary.
- 3.2 A comprehensive review of Telford & Wrekin Council's conditions of licence for Private Hire and Hackney Carriages has been undertaken, arising from the Taxi Action Plan.

4. PREVIOUS MINUTES

- 4.1 There are no previous minutes.

5. INFORMATION

5.1 Background

- 5.1.1 Telford & Wrekin Council has responsibility for licensing Hackney Carriage and Private Hire Vehicles, Drivers and Operators within the Borough of Telford & Wrekin.
- 5.1.2 The purpose of licensing Hackney Carriages and Private Hire Vehicles, Drivers and Operators is for the provision of a safe and accessible service to the public.
- 5.1.3 Section 47 (1) of the Local Government (Miscellaneous Provisions) Act 1976 [LG(MP)A 1976] allows licensing authorities to attach to the grant of Hackney Carriage licences conditions that it considers reasonably necessary.
- 5.1.4 Section 48(2) of LG(MP)A 1976 allows licensing authorities to attach to the grant of Private Hire Vehicle Licences certain conditions that they consider reasonably necessary.
- 5.1.5 Section 55(3) of LG(MP)A 1976 allows a local authority to impose any conditions that it considers reasonably necessary on a Private Hire Operator's Licence.
- 5.1.6 Section 51(2) of LG(MP)A 1976 allows local authority to impose conditions that it considers reasonably necessary on a Private Hire Driver Licence.
- 5.1.7 Telford & Wrekin Council has traditionally, in accordance with the above, attached conditions to Hackney Carriage and Private Hire Licences.
- 5.1.8 A comprehensive review of these conditions of licence forms part of the Taxi & Private Hire Action Plan arising from the investigations into Licensing by the External Panel and Scrutiny Commission.
- 5.1.9 The Department for Transport (DfT) Best Practice Guidance has been used to shape this review. The DfT Guidance is directed at local authorities in England and Wales with responsibility for Hackney Carriage and Private Hire licensing who will "decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes". There is recognition within the document that it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters.
- 5.1.10 The consultation process has complied with Telford & Wrekin Council's Adult and Consumer Care's Principles of Consultation and also the Better Regulation Executive Code of Practice on Consultation.
- 5.1.11 The Council included, in the consultation process, Community Organisations, Partner Agencies, Licence Holders, Local and National

Trade Associations which may have been interested in responding to the consultation. The Council also welcomed the views from members of the public, particularly those Service Users who regularly use Hackney Carriage and Private Hire Vehicles and anyone else with an interest in the subject.

5.1.12 The Consultation Period commenced on 4th August 2008 and ended on 12th September 2008. Consultation documents were made available on the Council's website and intranet. Paper versions were made available in the receptions of Civic Offices and Darby House and at all the Telford & Wrekin libraries. They were also available upon request to the Licensing Service. Further copies were distributed at a series of meetings held during the consultation period. Every effort was made to bring the consultation process for the review of the Hackney Carriage and Private Hire conditions of licence to the attention of all interested parties. This was done via the local press, by the internet and by emailing and writing to a wide variety of consultees.

5.1.13 The views of all these persons and bodies who took part in the consultation process have been taken into account in the determination of the review of conditions for the Hackney Carriage and Private Hire Trade. A list of persons/organisations who responded to the consultation is attached at Appendix A.

5.1.14 The current conditions of licence, together with proposed conditions and with best practice and consultation responses, are attached at Appendices B to E.

5.1.15 Any changes and/or amendments to conditions will be subject to grandfather rights for existing licences.

5.2 Equal Opportunities

5.2.1 This report adheres to the Council's Equality and Diversity Scheme and does not discriminate on the grounds of race, gender, disability, age, religion or belief or sexual orientation.

5.2.2 Every effort was made to ensure that the consultation engaged the whole community, including minority ethnic communities, women and disabled groups.

5.2.3 An equalities impact assessment has been carried out on the consultation process for this review.

5.2.4 An equalities impact assessment will be carried out on each new set of Hackney Carriage and Private Hire Conditions.

5.3 Environmental Impact

5.3.1 There is no environmental impact arising from this report.

5.4 Legal Comment

- 5.4.1** The Council has the authority to attach such conditions as they may consider reasonably necessary to Hackney Carriage Licences by virtue of s.47(1) of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.4.2** The Council has the authority to attach such conditions as they may consider reasonably necessary to Private Hire Vehicles Licences by virtue of s.48(2) of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.4.3** The Council has the authority to attach such conditions as they may consider reasonably necessary to Private Hire Drivers' Licences by virtue of s.51(2) of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.4.4** The Council has the authority to attach such conditions as they may consider reasonably necessary to Private Hire Operators' Licences by virtue of s.55(3) of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.4.5** In attaching conditions the Licensing Authority will need to consider the consultation documents and the responses.
- 5.4.6** In attaching conditions the Licensing Authority will need to consider each condition on its merits and will need to be satisfied that the condition is necessary in order to assist in the provision of a safe and accessible service with the overriding consideration being public safety.
- 5.4.7** Following the principles set out in Associated Provincial Picture Houses v Wednesbury Corporation (1948) any conditions attached to a licence should not be so unreasonable that no reasonable authority could have made it.
- 5.4.8** Any person aggrieved by any condition attached to such a licence may appeal to the Magistrates' Court.

5.5 Links with Corporate Priorities

- 5.5.1** This report has links to a community that feels 'safe and protected'.

5.6 Opportunities and Risks

- 5.6.1** In proposing this action the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However not all risks

can be managed all of the time and some risks may not have been identified.

5.6.2 The following key risks and opportunities associated with this action have been identified and assessed and arrangements will be put in place to manage them.

(i) The Financial risks to the Council in the event of a Judicial Review application.

5.7 Financial Implications

5.7.1 At the time of printing, there is no Financial Comment, which may be added as an Appendix.

6. WARD IMPLICATIONS

6.1.1 This report has implications for all wards in the District.

7. BACKGROUND PAPERS

7.1.1 Local Government (Miscellaneous Provisions) Act 1976.

7.1.2 Town Police Clauses Act 1847

7.1.3 TWC Conditions of Licence for Hackney Carriage Vehicles.

7.1.4 TWC Conditions of Licence for Private Hire Operators

7.1.5 TWC Conditions of Licence for Private Hire Drivers

7.1.6 TWC Conditions of Licence for Private Hire Vehicles

7.1.7 The Department for Transport - Hackney Carriage and Private Hire Vehicle Licensing: Best Practice Guidance, published in November 2006

7.1.8 Human Rights Act 1998.

7.1.9 Public Health Act 1936.

7.1.10 The Motor Vehicles (Wearing of Seat Belts) Regulations 1993

7.1.10 Taxis – Licensing Law and Practice second edition – James T H Button

7.1.11 Transport for London Public Carriage Office – Construction and Licensing of Motor Taxis for Use in London – Conditions of Fitness

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