

Licensing Service
Telford & Wrekin Council
Darby House
Lawn Central
Telford
TF3 4JA

13th March, 2012

Dear Sir / Madam

Hackney Carriage and Private Hire Licensing Draft Policy

I write in response to your request for comments on the Draft Hackney Carriage and Private Hire Licensing policy. My company, Allied Vehicles, has specific input to offer in relation to the following points of the draft document.

Appendix E, Section 2

2.1 All vehicles submitted to the Council for licensing as Hackney Carriages shall meet the safety standards of M1 Category Whole Vehicle Type Approval.

Comment: This is a key requirement which is useful in ensuring high standards of public safety and, importantly, which is benchmarked objectively against a recognised international standard set by safety experts for vehicle design and construction.

2.2 The proprietor shall ensure that the Hackney Carriages shall only be of the type approved for public hire used by the Commissioner of Police of the London Metropolitan area, namely a purpose built vehicle designed to carry up to seven passengers and that complies with the following [continues to 2.3 and subsequent points];

Comment 1. We do not understand the reference to the London Metropolitan area in this draft licensing policy for Telford & Wrekin. No explanation is given of the link between the two locations.

Comment 2. In addition to the above, we do not understand the reference to the Commissioner of Police of the London Metropolitan area. As far as we are aware, he has no direct responsibility for approving or enforcing taxi licensing policy in Greater London.

Comment 3. If this specification, for Telford & Wrekin, is intended to rely upon the Conditions of Fitness for hackney vehicles as stated by Transport for London, you

should be aware that such a policy is contrary to Department for Transport Guidance¹ to local taxi licensing authorities, which states:

19. *Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible . . . In that way there can be flexibility for new vehicle types to be readily taken into account.*

20. *. . . local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. (There are at present only two designs of purpose-built taxi.) But of course the purpose-built vehicles are amongst those which a local authority could be expected to license.*

Comment 4. Such a policy also runs contrary to Guidance from the Department of Health², which states:

'Wheelchair users should not travel with the wheelchair at an angle or facing sideways.'

Research has shown that, because of inherently restricted floor space in London style taxis (which comprise the vast majority of the existing fleet in Telford & Wrekin), 96% wheelchair users are left to travel facing sideways³.

Comment 5. As you have previously been advised by the Equality & Human Rights Commission, a policy founded on the London Conditions of Fitness is unlawful under the Equality Act (2010) [previously the Disability Discrimination Act (1995)] because it has the effect of discriminating against a class of users of larger wheelchairs.

The Council has a positive duty to make a 'reasonable adjustment' to its policy, in order to place disabled people in a position as equal as possible with that of able-bodied people. Such an adjustment is readily available, simply by removing licensing restrictions which prevent the development of a diverse tax fleet (as encouraged by the Department for Transport guidance) and, in particular, prevent licensing of more wheelchair accessible vehicles such as the Peugeot E7 cab⁴.

¹ Department for Transport, Taxi & Private Hire Vehicle Licensing: Best Practice Guidance (2010)

² Medical Devices Agency, Guidance on the Safe Transportation of Wheelchairs (2001)

³ Lowland Report (2008)

⁴ Alma Lunt and Allied Vehicles (Intervener Equalities & Human Rights Commission) v Liverpool City Council [2009] EWHC 2356 (Admin).

Comment 6. A policy founded on the London Conditions of Fitness is also unlawful under Article 34 of the EU Treaty, because it restricts the sale of a product manufactured in another EU country⁵.

Comment 7. It is unclear whether: “. . . *complies with the following;*” means that the following is the list of specifications that require to be met; or that this list is in addition to “. . . *the type approved for public hire used by the Commissioner of Police of the London Metropolitan area . . .*”; or some combination of the two.

2.3 *The vehicle must have provision for a minimum of at least one wheelchair.*

Comment: This is an important and justifiable requirement. However it will be important to define what is meant by provision. We assume, for example, that you do not mean a place in which to carry a folded-down wheelchair. Similarly, it would be insufficient if vehicles were such that a wheelchair could be pushed *into* the cab, via an access ramp, yet it was unreasonably difficult (or impossible) to maneuver wheelchair users into the correct and safe position for travel and in which they will be safely secured.

2.4 *A certificate should be produced showing all of the fittings used to secure wheelchairs to the floor of the vehicle are to Department of Transport specifications.*

Comment: This is an important and justifiable requirement. However, as noted above, it will be redundant if wheelchair users cannot reasonably be safely positioned and therefore secured with the relevant fittings prior to travel. In setting such a requirement, it is important that it be effectively policed on presentation for licensing. We are, however, unaware of any such standards having been set by the Department for Transport for M1 vehicles, including taxis.

2.5 *The appropriate ramps and associated equipment for loading wheelchairs into the vehicle in the approved manner must be carried and used at all times.*

Comment: This is an important and justifiable requirement. It is important that this be effectively monitored whilst licensed vehicles are in operation.

2.6 *The age limit for Hackney Carriage vehicles is ten years.*

Comment: This is a reasonable requirement, on grounds of progressively reducing environmental impact. Safety considerations should be managed through the vehicle licensing criteria, in conjunction with periodic vehicle inspections.

2.7 *Vehicles equipped with Space Saver / Skinny / Get you home tyres will not be licensed by the Council. All Hackney Carriage vehicles must be fitted with*

⁵ As above (4)

manufacturers approved tyres of the same size and type including the spare wheel.

Comment: This specification is increasingly likely to become impracticable as vehicle manufacturers move towards more modern solutions to roadside punctures.

2.8 *The Council shall refuse any vehicle submitted for licensing which has been equipped with manufactured or retro-fitted blacked out windscreens and/or windows. Standard tinted windscreens and windows are acceptable providing all occupants in the vehicle can be clearly seen from the outside with the doors closed and the windows up. In any case proprietors are advised to consult the Council if in any doubt before purchasing such type of vehicle.*

Comment: This specification is reasonable and justified.

2.9 *The proprietor of the taxi shall ensure that no non-standard unauthorised alterations or modifications are carried out to the vehicle or to the engine.*

Comment: We think we understand the intention behind this requirement. However, it will be important to ensure that “no . . . modifications” does not preclude legitimate and valuable modifications such as, for example, a hearing loop, satellite navigation or emission reducing technology.

2.10 *The proprietor of the taxi shall ensure that the exterior colour of the taxi is black, or one of the manufacturer’s colours, the use of which has been approved by the Council.*

Comment: We are unclear from this whether the Council has a policy to require a particular colour scheme for hackney taxis. On the one hand, this specification appears to suggest that there is a requirement for black, while on the other it appears that there may be a range of approved colours? There is some case law on the validity or otherwise of specifying a particular colour scheme for local taxis but it would be unusual to have a required set of colours. This specification should be more clearly stated and a justification given for any particular requirement.

The reference to “. . . one of the manufacturer’s colours . . .” appears to imply allegiance to a single manufacturer. Any requirement based on colours offered by one or more particular manufacturers would have the effect of restricting the sale of vehicles by other manufacturers and, consequently, is likely to be in breach of Article 34 of the EU Treaty.

Conclusion

In reviewing taxi vehicle licensing policy for Telford & Wrekin there are important opportunities for the Council to achieve positive improvements for stakeholders. Embracing a wider choice of vehicle types will, for example:

- Offer Telford & Wrekin residents and visitors more modern cabs, with greater passenger capacity and luggage space.
- Reduce harmful vehicle emissions in Telford & Wrekin and reduce Telford & Wrekin's contribution to global emissions.
- Offer wheelchair using residents and visitors more accessible cabs, in which they can travel safely, in the correct position and correctly secured.
- Offer Telford & Wrekin taxi drivers additional safety features, not available in traditional London-style taxis.
- Offer Telford & Wrekin taxi owners access to a more competitive market for vehicle sales, trade-in valuations and after-sales services.
- Offer Telford & Wrekin taxi owners, residents and visitors access to modern, comfortable cabs which are substantially less expensive than either of the vehicle types licensed currently in the district.

Amending the draft policy and removing restrictions on modern vehicles such as the Peugeot E7 cab need have no effect on the licensing of other vehicles currently accepted by Telford & Wrekin Council. Taxi owners attracted by particular features of existing vehicles will be unaffected and perfectly at liberty to continue to invest in their preferred cab. On the other hand, the current taxi vehicle specifications in Telford & Wrekin prevent taxi owners who prefer other vehicles from making such a choice.

I trust that this contribution to your consultation is helpful and that the Council will wish to take urgent steps to amend its hackney taxi licensing policy in line with central government best practice guidance, UK and European law. Please do not hesitate to contact me, should you have any queries concerning our submission.

Yours faithfully,

Donald Pow
General Manager

T: 0141 336 1183

www.alliedmobility.com

www.cabdirect.com

www.alliedelectric.co.uk