

Telford & Wrekin Council

Licensing Committee – 18th September 2013

Review of the Council's Hackney Carriage and Private Hire Conditions and Policies

Report of the Service Delivery Manager, Public Protection

1. PURPOSE

- 1.1 For Members to approve the contents of the report and to agree to a two month consultation with the trade and associated bodies.

2. RECOMMENDATIONS

- 2.1 Having considered all relevant information, for Members to approve an eight week consultation upon a revised set of conditions for the following Licences:-:

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

and for the Chair of the Licensing Committee and the Principal Licensing Officer to consider and determine the results of the consultation. However, if there are any adverse comments as a result of the consultation a further report will be brought before Members for determination

- 2.2 To approve amendments to the current Licensing Policy as detailed in Appendix B.
- 2.3 To approve minor amendments to the current Criminal Convictions Policy as detailed in Appendix C.

3. SUMMARY

- 3.1 Sections 47(1), 48(2), 51(2) and 55(3) 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 discussions with the licensed trade.

4. PREVIOUS MINUTES

- 4.1 LC-38 26th March 2013
LC-04 26th June 2013

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 conditions that they consider reasonably necessary.
- 5.1.5 Section 51(2) of LG(MPA)A 1976 allows licensing authorities to attach to the grant of Private Hire Driver Licences conditions that they consider reasonably necessary.
- 5.1.6 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.
- 5.1.7 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 the Conditions and Policies has been instigated as a result of a significant loss in licensing income and we have attempted to identify areas where there could be changes.
- 5.1.9 A series of meetings were arranged with the trade. All persons present were invited to state what changes they would wish to see made to the Council's Policies and Conditions.
- 5.1.10 The Licensing Service felt it important to be able to come to some sort of consensus with the trade regarding what matters needed to be reviewed.
- 5.1.11 On 26th March 2013, a meeting was undertaken with representatives of the Private Hire Trade. During the meeting, a number of issues were discussed including:-
- Age Criteria – general consensus was to remove the current age limit of 5 years for entry of Private Hire Vehicles into the trade.
 - Advertising on Private Hire Vehicles – operators would like to be able to advertise their own business on the vehicles.
 - Removal of two compliance checks for vehicle over 5 years old and instead for the Licensing Authority to approve 1 compliance check and 1 MOT check every year.
 - Examination of the current Driving Standards Agency (DSA) Test (Members should note that since the meeting changes to the format of the driving test have been implemented. See Previous Minutes.)
 - Roof signs – most operators felt it important to maintain a roof sign as it clearly distinguishes Private Hire Vehicles from those of our neighbouring authority.
 - To include the necessity for all drivers to report cautions and charges to the Licensing Service within 7 days of being imposed (currently drivers report convictions only).
- 5.1.12 On 27th March 2013, a meeting was undertaken with the Hackney Carriage Association. During this meeting, a number of issues were discussed including:-
- Age Criteria – unanimous consensus with the trade to extend the current age limit of hackney carriages from 10 years to 12.
 - 'Exceptional Condition Criteria' – to amend this condition that if the proprietor of a Hackney Carriage applies for exceptional condition criteria and the vehicle upon test fails with a major fault, the driver will be allowed one opportunity to rectify the fault. If after a further compliance check, the vehicle still fails, then the hackney carriage vehicle will not be relicensed.

To support their request, the trade have provided the Licensing Service with a signed petition. A copy of this is attached as **Appendix A**.

- To include the necessity for all drivers to report cautions and charges to the Licensing Service within 7 days of being imposed (currently drivers report convictions only).

- 5.1.13 Continuous dialogue has been maintained with the trade and representatives have been asked to email the Licensing Service with any further thoughts. Members should note that no additional correspondence has been received.
- 5.1.14 The Licensing Service has taken into consideration all the opinions expressed. It has now formulated a revised set of conditions and has made amendments to the Policy. Again, Members should note that the changes to the current Licensing Policy are purely administrative and reflect the recent changes to the Driving Standards Assessment and the move towards the issuing of three yearly Driver Badges. See Previous Minutes.
- 5.1.15 In addition, Members should note that changes to the current Criminal Convictions Policy are predominantly administrative and reflect the changes in the Criminal Records Bureau (now the Disclosure & Barring Service).
- 5.1.16 To assist Members, the report has attached the current Licensing Policy and conditions applicable to all vehicles, drivers and operators. The report contains all 'tracked changes' which will highlight to Members all amendments that will form part of the consultation. Copies are attached as **Appendix B-H**
- 5.1.17 It is generally accepted that both the current Policy and Conditions are extremely wordy. An effort has been made to address this and remove obsolete conditions.
- 5.1.18 As well as reviewing the current Policy and Conditions, the Licensing Service felt it an opportune time to look at rewriting the conditions applicable to limousines. Currently, Telford & Wrekin Council does not have any such vehicles licensed with the Council. However, the Service feels that it is necessary to have a set of new conditions ready in case any applications are received to license limousines. A set of model conditions are attached at **Appendix J** which has been drawn up with assistance from the National Association of Limousine and Chauffeur Drivers.
- 5.1.19 This may appear to be a complex report with a number of issues for Members to digest. To assist, the following itemises what the Licensing Service wishes to consult upon:-

Hackney Carriage Conditions

- **Condition 2.6 To increase the age limit for Hackney Carriages to 12 years.**

- To amend the condition in respect of the ‘exceptional condition criteria’ and allow drivers one opportunity to rectify a major fault. If however, after a further compliance check the Hackney Carriage fails, then the vehicle will not be licensed any further.

Private Hire Vehicle Conditions

- **Condition 3.5 To remove the current age entry limit of five years.**
- **Condition 8.1 To amend the current condition and to allow Private Hire Vehicles to advertise details of their operator, which will include business name, address & telephone number.**
- **Condition 3.3 To create a new set of conditions applicable to limousines.**

Dual Driver Conditions

- **Condition 4.1 To amend this condition to state that the Licence holder shall notify the Council in writing of any conviction, caution or charge recorded against him/her by any authority within 7 days of such a conviction, caution or charge being imposed**

5.1.19 Finally Members should note that in all its deliberations, the main consideration of the Licensing Service has been to ensure that public safety remains paramount. It is the opinion of the Service that the matters requiring consultation will not undermine this important objective.

5.2 Equal Opportunities

5.2.2 Every effort will be made to ensure that the consultation engages the whole community, including user groups.

5.2.3 An equality impact assessment will be carried out on the 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 legislative provisions are set out in the report. Any decision to amend a policy must be a reasonable one when considered in light of general public law considerations. That is, Members should take into account all relevant considerations and disregard irrelevant matters.

Members should be satisfied they are in receipt of all necessary information and make a decision based on that information.

5.5 Links with Corporate Priorities

5.5.1 This report has links to the following Corporate Priorities:

2. protect and create jobs as a 'Business Supporting, Business Winning Council'
3. improve local people's prospects through education and skills training
4. protect and support our vulnerable children and adults

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 legal challenge to the change in Policy and or Conditions.

5.7 Financial Implications

5.7.1 In 2012/13 £58k income was received in respect of licenses for Hackney Carriages and Private Hire Vehicles. This has reduced from £134k received in 2010/11. Whilst there are no issues arising from the amendments to the licensing policy there remains a significant budgetary pressure as a result of operators applying for taxi licenses through Shropshire Council. The budget shortfall for 2013/14 is projected to be in the region of £168k. This has been identified as a pressure through the Council's financial monitoring process.
MLB 09.09.13

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 T&WC Conditions of Licence for Hackney Carriages.
- 7.1.4 T&WC Conditions of Licence for Private Hire Operators
- 7.1.5 T&WC Conditions of Licence for Private Hire Vehicles
- 7.1.6 T&WC Conditions for Dual Driver Licences
- 7.1.7 T&WC Hackney Carriage & Private Hire Policy
- 7.1.8 T&WC Convictions Policy
- 7.1.9 T&WC Manual of Vehicle Inspections
- 7.1.10 Model Conditions as approved by the National Association of Limousine and Chauffeur Drivers

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