

**TELFORD & WREKIN COUNCIL**

**LICENSING COMMITTEE – 17<sup>TH</sup> FEBRUARY 2011**

**REVIEW PRIVATE HIRE VEHICLE AND HACKNEY CARRIAGE LICENCE  
CONDITION**

**REPORT OF THE SERVICE DELIVERY MANAGER – PUBLIC  
PROTECTION**

**1. Purpose**

- 1.1 For Members to review condition 1.1 attached to Private Hire Vehicle and Hackney Carriage Licences.

**2. Recommendations**

- 2.1 Having considered all relevant information, for Members to determine to remove the following condition number 1.1 from Private Hire Vehicle and Hackney Carriage Licences:

*Throughout the currency of his/her licence the holder of a Private Hire/ Hackney Carriage Vehicle licence shall be a fit and proper person to hold such licence. New applicants will be subject to a satisfactory Criminal Records Bureau check and all licence holders will be subject to a check every three years.*

**3. Summary**

- 3.1 Sections 48(2) and 47(1) 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 The Council has since received a representation from the Telford Private Hire Operators Association in relation to this condition of licence.

**4. Previous Minutes**

- 4.1 LC40 – Licensing Committee 1<sup>st</sup> December 2010.

## **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 Telford & Wrekin Council has traditionally, in accordance with the above, attached conditions to Hackney Carriage and Private Hire Licences.
- 5.1.6 The current condition in respect of Hackney Carriage Vehicles states that throughout the currency of his/her licence the holder of a Hackney Carriage Vehicle Licence shall be a fit and proper person to hold such licence. New applicants will be subject to a satisfactory Criminal Records Bureau check and all licence holders will be subject to a check every three years.
- 5.1.7 The current condition in respect of Private Hire Vehicles states that throughout the currency of his/her licence the holder of a Private Hire Vehicle Licence shall be a fit and proper person to hold such licence. New applicants will be subject to a satisfactory Criminal Records Bureau check and all licence holders will be subject to a check every three years. The Council's conditions of licence for Private Hire Vehicles and Hackney Carriages are attached at Appendix A.
- 5.1.8 The Council has now received representation from the Telford Private Hire Operators' Association in relation to this condition of licence.
- 5.1.9 The Exception Order 1975 to the Rehabilitation of Offenders Act 1974 sets out the exempted posts and positions for which a Criminal Record Disclosure may be obtained. A Private Hire Vehicle/Hackney Carriage Proprietor is not an exempted post.

5.1.10 Historically it was considered best practice to request criminal record disclosure in respect of these licences. However following recent discussions with the Criminal Records Bureau and in light of the proposed changes included in the Vetting and Barring Scheme it is no longer considered necessary for the Council to request criminal record disclosures for Private Hire Vehicle/Hackney Carriage Proprietors.

## **5.2 Equal Opportunities**

5.2.1 This policy has taken into account the Telford & Wrekin Equality and Diversity Policy and the Equality Act nine protected characteristics; Age, Disability, Gender reassignment, Marriage and civil partnership, Race, Religion or belief, Sex, Sexual orientation, in its formulation.

## **5.3 Environmental Impact**

5.3.1 There is no environmental impact arising from this report.

## **5.4 Legal Comment**

The Exemption Order 1975 to the Rehabilitation of Offenders Act 1974 sets out the exempt posts and positions for which a Criminal Record Disclosure may be obtained. A Private Hire Vehicle/Hackney Carriage Proprietor is not an exempt post.

## **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 [There are no financial implications arising from the recommendations within this report.](#)

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## **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 Vehicles

7.1.5 Human Rights Act 1998.

7.1.6 Exceptions Order 1975 to the Rehabilitation of Offenders Act 1974

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**TELFORD & WREKIN COUNCIL**

**LICENSING COMMITTEE – 17TH FEBRUARY 2011**

**LICENCE FEES**

**REPORT OF: SERVICE DELIVERY MANAGER - PUBLIC PROTECTION**

**1. Purpose**

- 1.1 For Members to consider an increase in the levels of Licence Fees and charges affecting the Hackney Carriage and Private Hire trades in light of a representation received by the Licensing Service.

**2. Recommendations**

- 2.1.1 Having considered the representation received by the Licensing Service following the publication of a legal notice, for Members to resolve whether the proposed increase in licence fees should be implemented in a staged increase with a 50% increase being implemented on 1<sup>st</sup> March 2011 and a further 50% increase taking effect on 1<sup>st</sup> April 2012.

**3. Summary**

- 3.1 Following the meeting of the Licensing Committee on 1<sup>st</sup> December 2010, a legal notice advertising the proposed increase in licence fees was published in the Shropshire Star on 6<sup>th</sup> January 2011.

**4. Previous Minutes**

- 4.1 LC-39- Licensing Committee 1<sup>st</sup> December 2010.

**5 Information**

**5.1 Background**

- 5.1.1 On 1<sup>st</sup> December 2010, Members of the Licensing Committee resolved :

*that the level of fees in accordance with Column 3 of Appendix A (Increase based on actual cost recovery) via a staged increase over a period of time to be determined by the Members of the Licensing Committee, with the first increase to come into force on a specified date not less than 28 days from the date on which a notice is to be published subject to any relevant representations being received during this period with any responses being submitted to the Licensing Committee be approved.*

*Appendix A* to the report of the Service Delivery Manager of 1<sup>st</sup> December 2010 is attached at Appendix A

5.1.2 On 6<sup>th</sup> January 2011, a 28 day legal notice advertising the proposed increase in licence fees was published in the Shropshire Star and was also made available for public viewing in the reception areas at Civic Offices and Darby House. A copy of the notice is attached a Appendix B.

5.1.3 On 22<sup>nd</sup> January 2011 the Principal Licensing Officer received a written representation from Mr Abid Tawasin, Hackney Carriage Driver. A copy of the representation is attached at Appendix C.

## **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.

## **5.3 Environmental Impact**

5.3.1 Not applicable for the purposes of this report.

## **5.4 Legal Comment**

5.4.1 Hackney Carriage and Private Hire licence fees are at the discretion of the Council but should be reasonable and proportionate.

5.4.2 The charging of fees is provided for within the relevant legislation.

## **5.5 Links with Corporate Priorities**

5.5.1 This report has links to community protection and cohesion.

## **5.5 Financial Comment**

The budget savings proposals for 2011/12 assume that the increases in licence fees are implemented in one tranche. If the decision is made to phase the increase in licence fees this will impact upon the amount of savings that can be generated in 2011/12. The total savings from increased licence fees included within the 2011/12 budget plan is £27,400. If increases are phased this will reduce to £13,700 in 2011/12 with the balance of savings not achievable until 2012/13. Alternative savings will have to be identified in order to present a balanced budget for 2011/12.

## **5.7 Risks and Opportunities**

5.7.1 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.

5.7.2 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.

The following key risks and opportunities associated with these decisions is :

- The level of fees set being unreasonable arising to a challenge by judicial review.

5.7.3 Having identified this risk, processes and procedures have been put in place to ensure that Regulations are complied with.

## **6. Ward Implications**

6.1 This report has Borough wide Implications

## **7. Background Papers**

7.1 Local Government (Miscellaneous Provisions) Act 1976

7.2 Local Government (Miscellaneous Provisions) Act 1982

7.3 Town Police Clauses Act 1847

7.4 Transport Act 1981

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**TELFORD & WREKIN COUNCIL**

**LICENSING COMMITTEE – 17<sup>TH</sup> FEBRUARY 2011**

**EQUALITY ACT 2010**

**REPORT OF THE SERVICE DELIVERY MANAGER – PUBLIC PROTECTION**

**1. Purpose**

- 1.1 To inform Members of relevant provisions to Hackney Carriage and Private Hire Vehicle licensing contained in the Equality Act 2010.
- 1.2 To inform Members of a request to review the Council's current conditions 4.2 of Private Hire Vehicle Licence relating to wheel chair accessible private hire vehicles and 4.8 relating to age limits on minibuses.

**2. Recommendations**

- 2.1 That the report be noted for information purposes.
- 2.2 That Members resolve to review condition 4.2 attached to Private Hire Vehicle licences and replace the current condition with the following condition :  
  
*A list of designated vehicles shall be maintained that will specify as many different types of vehicle as possible which allow the trade to put forward vehicles of choice that meet the criteria for wheelchair accessibility.*
- 2.3 That having resolved to review condition 4.2 in accordance with 2.2 above, that Members resolve to change the wording of condition 4.1 to the following :  
  
*The proprietor shall ensure that the Private Hire vehicle shall only be of the type approved for Private Hire by the Council, namely a motor car or a multi- purpose vehicle built to carry up to **eight** passengers with factory fitted seatbelts and an engine capacity not less than 1600cc. subject to the following:*
- 24 That Members resolve to review condition 4.8 attached to Private Hire Vehicle licences and include the review of this condition in the forthcoming consultation.

### **3. Summary**

- 3.1 The Equality Act 2010 consolidates into one Act a number of different pieces of legislation relating to discrimination. The new Act includes many of the hackney carriage and private hire vehicle provisions which were in the Disability Discrimination Act 1995 and also includes some changes.
- 3.2 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.
  - 3.2.1 The Council has received a representation from a Private Hire Operator in relation to two conditions of licence attached to Private Hire vehicle Licences.

### **4. Previous Minutes**

- 4.1 LC-132 and 133 – Licensing Committee 29<sup>th</sup> March 2010.

### **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 The Equality Act 2010 was enacted on 8 April 2010 to bring together in one Act a number of different pieces of legislation regarding discrimination. The new Act includes many of the hackney carriage and private hire provisions which were contained in the Disability Discrimination Act 1995 but also includes some important changes which are detailed in sections 160 to 173 of the Act.
- 5.1.4 Some of the provisions were brought into force on 1<sup>st</sup> October 2010. Sections 168 to 171 deal with the carriage of assistance dogs. These sections have simply been lifted from the Disability Discrimination Act 1995 which imposed duties on licensed drivers and operators to carry assistance dogs in licensed vehicles.
- 5.1.5 There is nothing new and nothing additional that drivers and operators need to do in relation to assistance dogs. The existing obligations will

carry on under the Equality Act 2010. The legislation will ensure that the Exemption Notice Regulations made under sections 37 and 37A of the Disability Discrimination Act 1995 will continue to have effect as though they had been made under the Equality Act 2010 and taxi and private hire drivers who are already exempt from the duty to carry guide dogs can continue to rely on their certificate of exemption issued by a licensing authority under the Disability Discrimination Act 1995. Telford & Wrekin Council do not currently have any licensed drivers with this exemption

5.1.6 Sections 165, 166 and 167 of the Equality Act 2010 deal with the requirement for drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs.

5.1.7 Section 165 places duties on drivers of designated wheelchair accessible taxis and private hire vehicles to :

- Carry the passenger while in the wheelchair
- Not to make any additional charge for doing so
- If the passenger chooses to sit in a passenger seat to carry the wheelchair
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort and
- To give the passenger such mobility assistance as is reasonably required.

This section will be commenced at a later date but not before April 2011.

5.1.8 Section 166 allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. Drivers who are refused a request for exemption will have the right of appeal to the Magistrates Court. This section commenced on 1<sup>st</sup> October 2010.

5.1.9 Section 167 allows licensing authorities to maintain a list of designated vehicles, i.e. a list of wheelchair accessible taxis and private hire vehicles licensed in their area. The consequence of being on this list is that the driver must undertake the duties in section 165. This section will be commenced at a later date but not before April 2011.

5.1.10 Although the list of designated vehicles will have no actual effect in law until the duties are commenced, the Department for Transport are urging licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates. When section 167 comes into force and the lists of designated vehicles have a statutory effect, it will be possible

for the owner of a vehicle to appeal to the Magistrates Court against a licensing authority's decision to include his or her vehicle on the list. A driver of a designated taxi or private hire vehicle who refuses to carry a wheelchair user commits an offence punishable by a fine of (currently) up to £1000.

5.1.11 A comprehensive review of Telford & Wrekin Council's conditions of licence for Private Hire vehicles was undertaken in 2008, arising from the Taxi Action Plan. There were no responses in relation to condition 4.2 which states :

A Mini-Bus or similar purpose built vehicle designed to carry up to eight passengers (such vehicles must be wheelchair accessible).

5.1.12 The Licensing Authority has received a representation from Mr Terry Spooner, proprietor of Ultimate Taxis Ltd which requests a review of condition 4.2 relating to 8 passenger seated minibuses and a review of condition 2.2 relating to the age limit imposed on licensed minibuses. Mr Spooner's representation is attached at Appendix A and the Council's conditions of licence is attached at Appendix B.

5.1.13 Regarding Mr Spooner's request to review condition 4.2, Members are referred to the foregoing information contained in this report.

5.1.14 In relation to Mr Spooner's request to review condition 4.8 there were three responses from the trade on the subject of age limits during the last review and consultation. It is proposed that the Council include this condition as part of the forthcoming review process.

## **5.2 Equal Opportunities**

5.2.1 This report has taken into account the Telford & Wrekin Equality and Diversity Policy and the Equality Act nine protected characteristics; Age, Disability, Gender reassignment, Marriage and civil partnership, Race, Religion or belief, Sex, Sexual orientation, in its formulation.

## **5.3 Environmental Impact**

5.3.1 There is no environmental impact arising from this report.

## **5.4 Legal Comment**

5.4.1 Section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976 enables the Council to attach such conditions as it may consider necessary to vehicle licences.

5.4.2 When considering attaching conditions the Council will need to consider the provisions for hackney carriage and private hire vehicles which are contained in the Equality Act 2010 and the Disability

Discrimination Act 1995. Details of the relevant sections are contained within the body of the report.

## **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 an appeal to the Magistrates Court.

## **5.7 Financial Implications**

5.7.1 There are no financial implications arising from the recommendations within this report.

## **6. Ward Implications**

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

## **7. Background Papers**

7.1.1 Equality Act 2010

7.1.2 Department for Transport Guidance to local authorities and operators on provisions in the Equality Act in respect of taxis.

7.1.3 Local Government (Miscellaneous Provisions) Act 1976.

7.1.4 TWC Conditions of Licence for Private Hire Vehicles

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