

Licence to drive private hire vehicles

Licensing Board	26th July 2022
Report Author	Alison Brock, Technical Support Team Manager
Portfolio Holder	Cllr D Saunders, Cabinet Member for Finance
Status	For Decision
Classification:	Unrestricted

Executive Summary:

To consider a report to amend the Council's Guidelines on the assessment of vehicles to be licensed as hackney carriages or private hire vehicles.

Recommendation:

The instructions of the Board are requested.

CORPORATE IMPLICATIONS

Financial and Value for Money

Costs associated with processing the application are taken from licensing fee income.

The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the Local Government (Miscellaneous Provisions) Act 1976

Legal

The Licensing Board must pay proper attention to the applicant's rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.

Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area."

In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Board with regard to the grant/refusal of a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence-based and proportionate.

Whilst there is no statutory guidance with regards to the definition of a fit and proper person, in 2018 The Institute of Licensing produced guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades in order to bring clarity and conformity to the definition of a 'fit and proper person'.

Corporate

The Council's Core Business Objectives set out the direction of travel for the Council until 2023 laying the strong foundations that will benefit, shape and grow the district. By taking this approach, the Council's resources will be focused on what matters most, service delivery will be strengthened and both staff and partners will be working towards a common goal - ensuring prosperity and improved quality of life for our residents and the community.

These Core Business Objectives are:

Growth

We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in growth of the District.

Environment

Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we do and what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

Communities

Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as "responsible authorities" and/or "other persons" (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

1.0 Introduction and Background

- 1.1 Vehicles to be licensed as private hire and hackney carriage vehicles must undergo examination by the Technical Support Team Officers. The Officers follow Guidelines on the assessment of vehicles to be licensed as private hire and hackney carriages.
- 1.2 These Guidelines were drawn up and agreed by the Licensing Board many years ago to assist Officers when considering applications for vehicle licences. These Guidelines have been amended on various occasions by the Licensing Board the last time being in April 2009. A copy of the current Guidelines are attached at Annex A.

2.0 The Current Situation

2.1 Window Tinting

Guideline 2d currently states that

- 2(d)(i) All vehicles must comply with the Road Vehicles (Construction & Use) Regulations 1986 as amended, specify that the light transmitted through the windscreen must be at least 75% and the front side windows must allow at least 70% of light to be transmitted through them.
- 2(d)(ii) Further all other windows including the rear window must allow at least 70% of light to be transmitted through them.' This is known as AS3 glass; we only currently allow AS1 & 2.

This was agreed by the Licensing Board in April 2009.

- 2.2 Part 2(d)(ii) was an addition by the Licensing Officer at the time. It is not set in the current VOSA guidelines.
- 2.3 Checks with a number of other authorities' guidelines have shown that we are one of a few that still have this guideline.

A survey conducted by Private Hire News stated that the cost to replace two windows is around £600 plus VAT and can go up to the region of £4000 plus vat, depending on the type of window and vehicle.

The Road Vehicles (Construction and Use) Regulations 1986, as amended, requires that motor vehicles first used on or after 1 April 1985, must have windscreens which allow at least 75% of light to pass through, and the front side windows to either side of the driver's head which must allow at least 70% light transmission. If the glass is tinted to a point whereby it lets through less light, then the vehicle does not meet the legal requirements.

A lot of manufacturers now use window tinting in the rear windows of vehicles (AS3) as standard and it is becoming increasingly difficult to buy newer vehicles without this.

We have had a number of drivers who have been looking at new vehicles but have been unable to purchase them due to the rear window tint restriction in the

guidelines. We, of course want to encourage newer cars on to the circuit and this 'guideline' is currently causing us to have to refuse a number of vehicles.

2.4 Rear Seat Measurement

Condition 1 currently states that the rear seat measurement must be 52.5inches this is also very restrictive. Many authorities have a seat measurement of 16 inches per passenger this would mean 48 inches across the rear seat.

If the condition is changed to

(a) As a guide, there should be at least 16 inches per person on the back seat.

This would then allow us to licence smaller electric vehicles such as the Nissan Leaf for only 3 passengers, 1 in the front and 2 in the back.

2.5 Vehicle Guideline Changes Requested

Windows Condition 2d

To be in a good clean condition and free from damage. All windows must comply with relevant legislation in respect of light transmission (ie VOSA). Only original AS 1, 2 or 3 vehicle manufactured tints are permitted on the rear windows.

Rear Seat Measurement Condition 1

As a guide, there should be at least 16 inches per person on the back seat.

3.0 Options

- 3.1 To agree the requested changes to the current guidelines
- 3.2 To leave the guidelines as they currently are

Contact Officer: Alison Brock – Technical Support Team Manager

Reporting to: Penny Button Director of Neighbourhoods

Annex List

Annex 1 – Current Vehicle Guidelines

Background Papers

Article in Private Hire News re tinting

<https://privatehirenews.co.uk/magazines/issue-92/html/index.html?page=60&origin=reader>