

Body: General Licensing Committee
Date: 21st April 2009
Subject: Quality Control Policy Linked to Delimitation of Hackney Carriage Proprietor Licences.
Report Of: Karen Plympton, Licensing Manager
Ward(s): All
Purpose: To agree the Council's Policy in relation to Quality Control, linked to delimitation of hackney carriage proprietor licences, following a decision to remove restrictions on the number of hackney carriage proprietor licences available.
Contact: Karen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937
E-mail address karen.plympton@Eastbourne.gov.uk

1.0 Background

- 1.1 The purpose of the hackney carriage and private hire licensing regime is to ensure the provision of a safe, accessible service. Public safety is of paramount importance.
- 1.2 The service provided by the hackney carriage and private hire trade plays a key role in the provision of an integrated transport system. Decisions taken by the Licensing Authority should be approached in the interests of the travelling public.
- 1.3 At the time of writing this report, the Borough has 312 licensed private hire vehicles, and 90 hackney carriage licensed vehicles. Since 1976, the Authority had issued 84 hackney carriage proprietor licences. In 2006, following a unmet demand survey, the Committee agreed to release a further 6 licences, subject to a series of terms and conditions as detailed in 1.7 of this report. These 6 licences came into service in 2007.
- 1.4 The Licensing Authority is not, however, permitted to dictate or control the number of private hire vehicle licences in the Borough.
- 1.5 Eastbourne has high vehicle standards for its licensed fleet. It is intended that a mixed fleet of licensed vehicles be retained, ranging from saloon to multi-seater vehicles, and that the 84 hackney carriage licences already issued prior to 2006 without conditions remain, and be replaced on a "like for like" basis.
- 1.6 The commercial premium associated with hackney carriage proprietor licences is something the Licensing Authority has no control over. This "like for like" approach may help to preserve some of the value of the "licence plate," as well as fulfilling the principles of a "mixed fleet." This means that several different types of vehicle are licensed to meet the various requirements of the travelling public.

- 1.7 The 6 hackney carriage proprietor licences issued in 2006, which came into service in 2007, will continue to have conditions aligned to their use, these being that vehicles are wheelchair accessible, not more than a specified age when entering the Trade, meet European Whole Vehicle Type Approval, and have attained required safety standards.

2.0 The Decision

- 2.1 On 9th March 2009, the Full Licensing Committee met to determine its future approach in relation to the provision of hackney carriage proprietor licences in the Borough.
- 2.2 This review came about following guidance from the Department of Transport to relax the restriction on licences, the expiry of the current unmet demand survey, a petition from the Disability Involvement Group, and a need for the Council to review its overall future approach.
- 2.3 The Full Licensing Committee heard evidence from a range of "interested parties", and on balance, after hearing representations, and considering the interests of the travelling public, opted for delimitation, linked to a policy of quality control.
- 2.4 The decision to remove restrictions on the number of hackney carriage proprietor licences can be kept under review by the Committee, at suitable intervals, for example annually or 6 monthly. This will enable monitoring to be undertaken, so the Authority can ensure that the service meets the needs of the travelling public, and review any potential effect on the trade.

3.0 What is Quality Control?

- 3.1 A policy of quality control means that new hackney carriage proprietor licences issued after a specific date will only be released for vehicles meeting certain technical, age and safety specifications. It is intended that this policy will detail specific conditions to ensure the maintenance of vehicle standards, address any potential safety issues, as well as meeting the needs of the travelling public.
- 3.2 Where a policy of delimitation is linked to a quality control policy in other areas of Sussex, for example, Crawley and Worthing, evidence from Council Licensing Officers is that it assists in the management and maintenance of vehicle standards, and rank space availability. This appears to have improved overall service provision for the travelling public. Crawley has issued 23 hackney carriage proprietor licences over the past 6 years.
- 3.3 Members are advised that the concept of delimitation linked to a policy of quality control has been challenged, but upheld in the cases of Regina v The City and County of Swansea ex parte Jones and Regina v The City of Newcastle ex parte Blake. Therefore such an approach is considered to be lawful.

4.0 Conditions Aligned to the release of Hackney Carriage Proprietor Licences forming the Quality Control Policy

- 4.1 In order to ensure that the needs of the travelling public are met, and that vehicles meet the required quality standards. The Committee can choose to adopt a policy of Quality Control linked to future hackney carriage proprietor

licences. A set of suggested conditions aligned to the Policy and future hackney carriage proprietor licences, is included at Appendix 1.

4.2 At the time of writing the report, feedback had been received from the following as to the form of the Quality Control Policy. Copies of correspondence are included at Appendix 2.

- Mr Peter Smith, Hackney Carriage Proprietor
- Mr Guy Lane, Hackney Carriage Proprietor
- Mr Kevin Jefferies, Hackney Carriage Proprietor

4.3 Members of the trade have been notified that they may provide written information that they would like the Committee to consider, at least 5 working days in advance of the meeting. The draft conditions forming the Quality Control Policy were discussed at the Taxi and Private Hire Forum on 9 April 2009. Various views were expressed and those attending were encouraged to submit written information to the Committee.

5.0 Options Open To The Committee

5.1 The Full Licensing Committee has already taken the decision to adopt delimitation linked to quality control, and now needs to determine the specifics of its policy. The Committee can choose to:

- (a) Adopt or amend all or some of the quality control policy conditions
- (b) To ensure that the needs of the travelling public are met and the correct balance is struck, the Committee may choose for the matter to be monitored and regularly reviewed, for example, annually or six monthly.

6.0 Community Safety Issues

6.1 The overriding concern that the Council, as the Licensing Authority, must consider is the provision of an accessible service where public safety is of paramount importance. Hackney carriage and private hire vehicles play a key role in the provision of an integrated transport system. The safe transportation of the public and the provision of a service at key times facilitates dispersal and has an impact on wider community safety objectives.

7.0 Human Resource & Financial Implications

7.1 There are no financial implications.

8.0. Human Rights Act 1998

8.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Full Committee when taking licensing decisions. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property.

8.2 Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right.

8.3 Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is

- Has a basis in law;
- Is intended to pursue a legitimate purpose;
- Is necessary and proportionate; and
- Is not discriminatory.

Background Papers

- Local Government (Miscellaneous Provisions) Act 1976
- Town Police Clauses Act 1847
- Halcrow Fox Study For Unmet Demand, 2000
- MCL Study of Demand For Hackney Carriages August 2006
- Department of Transport, Taxi and Private Hire Vehicle Licensing.
- R v Swansea City Council ex parte Jones
- Taxis, Licensing Law and Practice, Edition 2. James Button.
- R v City of Newcastle ex parte Blake
- Department of Transport Guide Best Practice Guide – Taxi and Private Hire Licensing 2006
- Department of Transport “Taxi Licensing: Review of Local Authority Quantity Control Policy” 2008
- White Paper, “A New Deal For Transport, Better For Everyone,” HMSO 1996
- Kelly and Smith v Wirral Metropolitan Borough Council 2006

Appendix 1

Proposed Terms and Conditions for Quality Control Policy linked to Hackney Carriage Proprietor Licences Released After 22nd April 2009

All new Hackney Carriage Proprietor Licences released after 22nd April 2009 will only be released subject to the following terms and conditions. This Policy must be read in conjunction with Eastbourne Borough Council's Standard Hackney Carriage Vehicle Licence Conditions and complied with prior to a hackney carriage proprietor licence being issued.

- (1) The vehicle shall include Council approved Accessible Vehicle signage.
- (2) Vehicles must hold "European Whole Vehicle Type Approval (EWVA). The appropriate "Type Approval Certificate" must be made available for inspection to an Authorised Officer prior to being licensed and at any time thereafter.
- (3) Vehicles first presented for licensing must not be more than 12 months old from the first date of registration, and except in the case of manufacturer's purpose built vehicles, namely London Cab /TX vehicles, may not be presented for the purposes of renewing the licence beyond 7 years of age.
- (4) Vehicles presented for licensing must be fully wheelchair accessible, (WAV) side loading and capable of being licensed to carry 5, 6, 7 or 8 passengers.
- (5) The Hackney Carriage Proprietor licence granted under this policy and conditions may not be transferred to another individual or organisation within 12 months of the date of this issue, except where the licence holder is permanently relinquishing all Hackney Carriage/Private Hire licences issued by Eastbourne Borough Council.
- (6) A vehicle will only be licensed where it has met the criteria set out in the above conditions, forming the "Quality Control Policy." Any vehicle replacing one issued under this Policy and conditions must meet the same criteria.