

Body: GENERAL LICENSING COMMITTEE

Date: 16th January 2012

Subject: Future Form and Content of Vehicle Livery Signage in Respect of all Council Licensed Hackney Carriage and Private Hire Vehicles.

Report Of: Karen Plympton, Licensing Manager

Ward(s) All

Purpose To outline the current position in relation to licensed vehicle livery, to consider mechanisms to improve their identification, to include a revised Council Corporate standard, alongside managed business specific advertising on licensed vehicles.

Options Open to the Committee Determine whether to:

- (1) Approve new vehicle livery to permit 1 single door sign for display on the front nearside and offside doors to include Council corporate requirements and business specific advertising.
- (2) Approve new vehicle door livery to permit 2 separate door signs, the first to include Council corporate requirements to be located on the back nearside and offside door of the vehicle. The second magnetic door sign to include business specific advertising on a separate door sign to be located on the front nearside and offside door of the vehicle.
- (3) Make no changes to the current vehicle livery.

Subject to the above:

- (1) Amend the vehicle licence conditions to reflect any changes.
- (2) Where changes are agreed, agree an implementation for the above.

Contact: Karen Plympton, Licensing Manager, (01323) 415937.
E-mail kareen.plympton@eastbourne.gov.uk

1.0 Introduction

1.1 Currently, all licensed hackney carriages and the vast majority of private hire vehicles must display door signs as part of their vehicle licence conditions, unless they have applied for a Council exemption.

- 1.2 These door signs can be either magnetic, and therefore easy to remove, or permanent, removed with a heat source, for example, a hairdryer. Such signage must be located on the front nearside and offside doors.
- 1.3 All licensed hackney carriages and the vast majority of private hire vehicles must display an internal and rear identification plate. In respect of Hackney Carriage Taxis, the rear plate is blue, and for Private Hire, the rear plate is yellow.
- 1.4 Hackney carriages must also display an approved roof sign, the form and content of which is as stipulated by the Council as Licensing Authority.
- 1.5 Licensed vehicles remain licensed at all times, and must only be driven by licensed drivers. Individuals undergo a series of tests, including a Driving Standards Agency Drive Test and an Enhanced Criminal Records Bureau check at the time of application, and subsequently every 3 years. Drivers must also periodically undertake a Group II Medical assessment to ensure that they are medically fit.
- 1.6 These checks aim to ensure that drivers' are "fit and proper." It is intended that this helps to minimise risk, promotes the safety of the public, and provides an appropriate, accessible transport service.
- 1.7 Vehicle livery, in the form of roof signs, door livery and internal/external identification plates help to ensure that the hackney carriage and private hire vehicles maintain a professional, easily identifiable, Eastbourne specific image.

2.0 The Historic Position

- 2.1 In December 1997, the Health and Public Protection Committee agreed to adopt new corporate livery requiring:
 - all licensed vehicles to be white , save for a few exceptions;
 - a single door sign to be displayed on the front doors of the vehicle incorporating both Council and business specific information;
 - unification of design and colours for hackney carriage roof signs.
- 2.2 At this meeting, Members agreed that door sign be placed on the near and offside front doors, but did not specify a size. It was decided that the wording should be set against a white background and that the door sign should incorporate the Council crest.
- 2.3 However, the Committee did not stipulate the size, colour, or font of the content of the door sign, be it wording or imagery, and nothing was formally recorded in the minutes.
- 2.4 The lack of clarity has made identification and enforcement virtually impossible, leading to wide variations in the form and content of door signage, especially within the hackney carriage taxi trade. Examples demonstrating the variance of current door signs are included at Appendix 1.
- 2.5 In 2005, the General Licensing Committee agreed to implement a colour difference between hackney carriages, requiring these to be entirely white, and private hire vehicles, to be "any colour other than white." This was

designed to make them distinct and different from one another and identifiable to the travelling public and enforcement agencies. Currently, many private hire vehicles are silver; however this is the decision of the Operator, and not something the Council as the Licensing Authority has control over.

- 2.6 Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 affords the Council the discretion to grant a proprietor a dispensation from displaying the licence plate and other vehicle livery on their licensed private hire vehicle. Each application for a dispensation is considered on its' own merits. To date, this has only been afforded to executive vehicles undertaking this type of work.
- 2.7 It should be noted that in accordance with the law, both hackney carriages and private hire vehicles remain licensed at all times, and should only be driven by a licensed driver.
- 2.8 It is irrelevant whether the vehicle is used for non occupational purposes, and any livery and signage required by the Council should be displayed at all times the vehicle is working, unless an exemption has been granted.

3.0 Current Position

- 3.1 The multitude of current designs displayed by members of the Trade who operate, or act as the proprietors of licensed vehicles, make identification as an Eastbourne licensed vehicle difficult.
- 3.2 The adoption of new interior and exterior plates in 2006 has helped to highlight vehicle plate details and differentiate between hackney carriages, which display a blue identity plate, and private hire vehicles, which display a yellow identity plate. Examples of the plates currently in use will be presented at the Committee meeting. This has gone some way in aiding identification, but further steps need to be taken to rectify challenges in relation to door livery.
- 3.3 Currently, the door signs displayed by both hackney carriages and private hire vehicles are of a similar design.
- 3.4 It could be argued that this contravenes Section 48 (1)(a)(ii) of the Local Government (Miscellaneous Provisions) Act 1976. It provides that a private hire vehicle is:

"Not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage."
- 3.5 Given the current arrangements, members of the public could be confused by the array of door signs that are presented to them on Eastbourne's licensed vehicles.
- 3.6 It is also evident that the public do not understand the differences between a hackney carriage or private hire vehicle. The current door livery does little to inform the public of the differences, is cluttered with information which does little to aid identification, and cannot be easily seen.

- 3.7 In order to avoid this situation, it must be made clear exactly what an Eastbourne licensed vehicle is, and what it should look like.
- 3.8 This would therefore enable hackney carriage vehicles to legally ply for hire, as well as informing members of the public of the differences between it and a private hire vehicle. This is only available via "prior booking only."

4.0 Current Vehicle Conditions and Byelaws

- 4.1 The conditions relating to all vehicle licences are included at Appendix 2. The relevant conditions relating to livery and advertising are highlighted in bold.
- 4.2 Members will note that the current vehicle conditions require that any signage is approved by the Council. However, given that the typeface, content, font and size of wording and imagery permitted on door signs was never formally recorded, or stipulated by the Committee in 1997, this has made consistency and enforcement virtually impossible, resulting in wide variations in form and content.
- 4.3 Members will also note that the conditions for both hackney carriage vehicles and private hire vehicle preclude advertising of any sort, unless prior approval has been obtained from the Council. These conditions will require revision if the Committee agrees to permit more extensive business specific advertising.

5.0 Consultation - Vehicle Livery and Advertising

- 5.1 The form and content of vehicle livery and advertising has been the topic of ongoing discussion at the Taxi and Private Hire Forum since 2004. The full minutes of the Forums can be found at www.eastbourne.gov.uk/taxis
- 5.2 However, there has been an ongoing consensus amongst the Trade that advertising needs to reflect the changes in technology, and vehicle livery, particularly door signs, require updating and revision.
- 5.3 At the most recent Forum in July 2011, it was agreed that a Vehicle Livery and Advertising Group, comprising of members of the Trade, and the Licensing Team be convened to discuss the issue of vehicle livery and advertising.
- 5.4 In June 2011, Eastbourne and Country 720 Taxis presented a revised livery sign for consideration by the Council's Licensing Manager, as part of a new company branding exercise.
- 5.5 This proposal was rejected on the grounds that it did not meet the broad parameters set by the Committee in 1997. The Company lodged an appeal to the Licensing Manager regarding this refusal, and asked that the matter be revisited by the General Licensing Committee, adding further impetus to the debate surrounding vehicle livery and the need to revisit it.

6.0 Vehicle Livery and Advertising Group

- 6.1 The key points of the meeting are included below. In summary:
- There was unanimous agreement that the wide variation in signs created confusion and the Licensing Team were criticised for not enforcing the

parameters set by the Committee in 1997. It was explained by the Licensing Manager that the Committee in 1997 had set very broad parameters, making enforcement and consistency virtually impossible.

- The hackney carriage trade representative, Mr Peter Smith, strongly supported the idea of two separate signs with the blue and yellow backgrounds to differentiate between hackney carriage and yellow for private hire vehicles, to ensure that the differences between hackney carriage and private hire vehicles are more apparent to enforcement agencies and the travelling public.

Mr Smith was adamant, that in accordance with the law, door signs should be permanent to ensure that the vehicle is used as a licensed vehicle at all times.

- The Private Hire representatives, Sussex Cars, Radio Cars and Call A Cab did not support any change, but favoured the use of a single sign.

- Eastbourne and Country 720 taxis strongly supported the blue and yellow colour difference and the use of 2 signs, one offering company specific advertising on the front doors of the vehicle, and the other corporate information in a smaller sign on the back doors.

- There were concerns about the relative cost of 2 signs. It was explained that the current varying signage used by the Trade could be used to fulfil the company specific advertising sign, and that, in the first instance, the Licensing Authority would cover the cost of a second, corporate specific sign. The average cost of a pair of magnetic signs is approximately £20, with permanent signs costing around £10. Vehicles can use their existing signage as business advertising on the front of the vehicle, and the only cost involved would therefore be linked to the Council corporate sign. However, the cost of the first set could be met from the Council budget.

- There was also a debate about whether the signs should be permanent or magnetic, with the majority favouring magnetic. The law on this, requiring the vehicle to remain as a licensed vehicle at all times, and that it should not be used by an unlicensed person for other purposes. Rear plates and related information should remain in situ at all times, unless an exemption had been applied for.

- Advertising of business specific information in a designated location on the vehicle was supported by the Group, but other non Trade related advertising was rejected on the grounds it would be cluttered and confusing to the public.

7.0 Questionnaire and Consultation with Trade

7.1 A questionnaire was sent out to all 421 hackney carriage proprietors and those holding private hire vehicle licences. Unsolicited responses were also received from three Private Hire Operators.

7.2 The covering letter and questionnaire, along with pictorial images suggesting two options in relation to new vehicle livery are included at Appendix 3. A third option of "no change" was also included.

- 7.3 82 people responded to the questionnaire. Responses were also received from three private hire operators: Sussex Cars (now amalgamated with Radio Cars,) Eastbourne and Country 720 Taxis and Call A Cab.
- 7.4 This represents 19.5% of the Trade, suggesting that 80.5%, 339 do not have a view on the matter.
- 7.5 The results of the questionnaire are included at Appendix 4.

Permanent or Magnetic Door Signs

- 7.6 Of the 82 respondents, 46 respondents stated that they preferred magnetic door signs, with 9 indicating that they did not mind either magnetic or permanent door signs. The remainder did not offer a view.
- 7.7 A proportion of the Trade are resistant to permanent door signage as they use the vehicle for other purposes and, whilst not lawful, also permit their spouses to drive it. There is also a suggestion that the vehicle may be more at risk of being broken into if it is more readily identifiable, although this has not been substantiated.
- 7.8 Several individuals within the Trade persist in not affixing the magnetic door signs as required when operating. This is a breach of licence conditions which stipulate that door signage should be displayed at all times. It is often claimed that the magnetic door signs have "flown off" when driving at speed, or have been stolen.
- 7.9 In 2006, a serious incident took place where magnetic signs had been stolen from an Eastbourne licensed vehicle and placed on another car. A male offered transport to the females who believed that they were using a licensed vehicle. Police were unable to identify the offender. A similar incident involving magnetic door signs stolen from a taxi in Horely occurred in November 2011, and remains a risk if magnetic signs are retained.
- 7.10 It is common practice for other trades people to have permanent signage displaying business and other information on the vehicle that they use in connection with their business.

8.0 Supplementary Responses from the Trade

- 8.1 Responses were also received from the following, and are included at Appendix 5.
- Mr Peter Smith, Independent Hackney Carriage Proprietor;
 - David Hopkins, Eastbourne and Country 720 Taxis
 - Mr Bob Bremmer, Sussex Cars
 - Julian Ledger, Call A Cab

9.0 Feedback from Enforcement Agencies

Sussex Police

- 9.1 Inspector Steve Tullett of Sussex Police advises that in his professional view, a change in the form and content of the vehicle livery is essential. The Police

view is that the current door signage is over populated with information, makes identification and enforcement challenging, and is confusing to the travelling public.

- 9.2 He is of the view that a separate door sign containing Trade specific advertising within Council specified parameters is understandable; enabling the business to market itself, but this should be kept entirely separate so that information is not confused. A separate Council corporate version containing the Council branding, plate number and wording/colours to differentiate between hackney carriages and private hire vehicles is essential.
- 9.3 The full response is included at Appendix 6, and Inspector Tullet will attend and address the Committee.

The Council Licensing Team

- 9.4 The Licensing Team, as the primary enforcement body submit that livery needs to be revised and that Council corporate information needs to be kept entirely separate from any business specific advertising. Information needs to be easy to understand, large and as simple as possible to promote public safety and facilitate identification.
- 9.5 The Team currently receives positive and negative information about particular vehicles and drivers. However, no further action can be taken or feedback given, as frequently, the passenger is only able to specify the company name or telephone number.
- 9.6 This is a particular problem where Officers are investigating incidents involving the hackney carriage trade. Having a distinct, colour specific corporate Council door sign on the passenger door, with Council crest and logo, the wording "HACKNEY CARRIAGE" or "PRIOR BOOKING ONLY" and the vehicle plate number would simplify identification, assist in the timely investigation and resolution of matters.

Disability Involvement Group (DIG)

- 9.7 At the last DIG in November 2011, the fifteen attendees, unanimously agreed that two separate door signs, one sign containing company specific advertising on the front door, and second Council coloured, corporate branded information on the rear as the favoured option. The Group considered that Council specific information was the most important and should be the most prominent and easiest to identify. The full response from the DIG is included at Appendix 7.
- 9.8 The Group were strongly in favour of a Council corporate sign similar to that already instated on the new, purpose built Wheelchair Accessible Vehicles (WAVs) agreed by the General Licensing Committee in April 2009. An example of this is included at Appendix 8.

Nightwatch Group and Business Crime Manager

- 9.9 At its last meeting in November 2011, members of Nightwatch were consulted about the proposed changes to vehicle livery. The group has been established to work together as the night time economy and enforcement agencies to promote safer socialising and ensure venues are operated appropriately.

- 9.10 Supported by the Nightwatch Chair, Andrew Morris, and Trish Pyboush, Eastbourne Borough Council's Business Crime Manager, the Group unanimously agree that two separate door signs is the most appropriate way forward. Their full response is included at Appendix 9.

10.0 Corporate Signage Requirements

- 10.1 With two separate door signs, the Council corporate door sign could be permanent, and only be sourced either directly from Eastbourne Borough Council, or their nominated supplier(s.) This should prevent forgeries and any variations in content. Appendix 10 provides an overview of what could be included in hackney carriage and private hire signage.
- 10.2 The Committee may wish to consider a Policy which requires any Council corporate signage to be made permanent. Any business specific advertising door signage could be magnetic, enabling it to be removed and updated as Company advertising changes.
- 10.3 A proportion of the Trade undertake school contract work on behalf of East Sussex County Council and must display County Council signage when undertaking such. On these occasions, the magnetic advertising signage could be removed, and replaced with the signage required by East Sussex County Council.
- 10.4 A key concern of the Trade is the additional cost of any new door signage. It is suggested that the current door signs used by the Trade can be used as business specific advertising, resulting in no cost to the Trade.
- 10.5 It has also been established that the cost of the first, pair of permanent Council corporate door signage could be met from the Licensing budget. Therefore, there is no initial outlay on the part of the Trade.
- 10.6 If a proprietor does not wish to avail him or herself of business specific advertising signage, there will be no requirement to display it.

11.0 Size, Location and Display of Signage

- 11.1 If the Committee opt for a single door sign, it is proposed that the size and shape of door sign be of a size so that it fits the top half of the front near and offside door of a standard saloon vehicle. The suggested size is 22cm by 58 cm and include the blue background to denote a hackney carriage vehicle and yellow background in the case of a private hire vehicle.
- 11.2 If the Committee, is minded opt for two separate door signs, one containing business specific advertising, and the other prescribed corporate Council information, it is proposed:
- The optional advertising sign be 22cm by 58cm and be placed on the front nearside and offside doors of the vehicle. This will enable proprietors to use their existing signage if they wish to avoid additional costs being incurred.
 - The Council Corporate sign be the same size as the above, or a similar size to that denoted in the picture at Appendix 8, currently 19cm by 28.5 cm to

incorporate the Council Corporate branding requirements and wording as detailed in Appendix 10. This should include the colour differential between vehicle types.

- 11.3 In some instances, proprietors may not wish to provide advertising of any sort on their vehicle, in which instance, only the corporate signage would be required.
- 11.4 If the Committee agree to business specific advertising on vehicles as part of the livery, vehicle conditions will need to be amended to reflect this. A set of revised, draft conditions are included at Appendix 11. .
- 11.5 In the case of 2 door signs being approved, on the occasions where the vehicle has assigned to undertake East Sussex County Council School Contract work, then the driver could remove the business specific advertising sign on the front door, and replace it with the signage required by the County Council. It could be that Members decide that Eastbourne Borough Council corporate signage should be permanent, but if the Committee decides against this, signs must be retained on the vehicle at all times when working.

12.0 Conclusion

- 12.1 It is clear that a review of the current vehicle livery and conditions are required. Whilst the views of the Trade are key, any decision taken should seek to promote public safety, and be approached in the interests of the travelling public.
- 12.2 It is submitted that the only practical way to ensure conformity, and to set a consistent standard in respect of vehicle signage is for the Committee to agree defined a Council door sign, whose design will be applied to all hackney carriages and the vast majority of private hire cars, save those that claim exemption under Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976.
- 12.3 The Council, as Licensing Authority has a duty to ensure that it takes all reasonable steps to provide a safe, accessible service, with vehicles that are easily identifiable to residents, schools, visitors and businesses.
- 12.4 It is important that key information is included to differentiate between hackney carriage and private hire vehicles, and that a vehicle is easy to identify in the event of an issue arising. It is also essential that signage reflects that it is licensed by Eastbourne Borough Council.
- 12.5 The current variations in vehicle livery have created confusion amongst the travelling public, makes individual identification difficult, whilst also lacking an overall corporate identity. A more robust, specified approach to the Council corporate signage requirements is needed, as well as measures to improve the identification of Eastbourne licensed vehicles.

13.0 Key Considerations For the Committee

- 13.1 In reaching its decision regarding the future of vehicle livery for Eastbourne licensed hackney carriage and private hire vehicles, Members must approach its

decision in the interests of the travelling public. Public safety is of the utmost importance.

13.2 In addition, Members will need to have regard to the views of:

- The hackney carriage and private hire Trade;
- Sussex Police, and other enforcement agencies;
- The Disability Involvement Group;
- Nightwatch and the Business Crime Manager.

14.0 Human Rights Act 1998-Implications

14.1 Article 1 of the First Protocol is concerned with the protection of property and provides that every person is entitled to peaceful enjoyment of his possessions. The term 'possessions' is given a broad definition and includes a licence, however in order to meet the requirements of obtaining that licence, a series of steps must be taken and conditions complied with, specified by the council as the Licensing Authority.

14.2 The Committee must consider the following if they wish to interfere with a right as established in the Human Rights Act 1998:

- The interference must be in pursuit of a legitimate aim
- The interference must be "prescribed by law"
- The interference must be "necessary in a democratic society"

14.3 The introduction of new vehicle livery, specifically door signs is to aimed to increase public awareness and safety, is prescribed by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and is necessary to deter illegal operatives, and to prevent crime, disorder and anti social behaviour. It will also further professionalise the image of the trade and the Town.

14.4 It should also be emphasised that any "aggrieved party" has a right of appeal to the Committee decision to the Magistrates Court..

15.0 Options Open to the Committee

Members can determine whether to:

(1) Approve new vehicle livery to permit 1 single door sign for display on the front nearside and offside doors to include Council corporate requirements and business specific advertising.

(2) Approve new vehicle door livery to permit 2 separate door signs, the first to include Council corporate requirements to be located on the back nearside and offside door of the vehicle. The second magnetic door sign to include business specific advertising on a separate door sign to be located on the front nearside and offside door of the vehicle.

(3) Make no changes to the current vehicle livery.

Subject to the above:

- (1) Amend the vehicle licence conditions to reflect any changes.
 - (2) Where changes are agreed, agree an implementation timetable for the above
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16.0 Right of Appeal

16.1 Any person aggrieved at the decision taken by the General Licensing Committee has a right of appeal to the Magistrates Court within 21 days of the decision being taken, by virtue of Section 48(7) of the Local Government (Miscellaneous Provisions) Act 1976. An "aggrieved person" in this context would include a hackney carriage and private hire vehicle proprietors

**Kareen Plympton
Licensing Manager**

Background Papers

- *Benson v Boyce [1997] RTR 226*
- *Hawkins v Edwards [1901] 2 KB 169*
- Local Government (Miscellaneous Provisions) Act 1976/1982
- Town Police Clauses Act 1847
- Regulation 100 of the Road Vehicles (Construction and Use) Regulations 1986
- *Yates v Gates [1970] 1 All ER*

