

Notice of Meeting

Licensing Committee

Date: Thursday, 08 September 2016

Time: 17:30

Venue: Conference Room 1, (Beech Hurst), Beech Hurst, Weyhill Road,
Andover, Hampshire, SP10 3AJ

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Legal and Democratic Service

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The recommendations contained in the Agenda are made by the Officers and these recommendations may or may not be accepted by the Committee.

PUBLIC PARTICIPATION SCHEME

If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.

Membership of Licensing Committee

MEMBER

Councillor J Budzynski

Councillor A Johnston

Councillor N Anderdon

Councillor A Beesley

Councillor A Brook

Councillor Z Brooks

Councillor J Cockaday

Councillor D Denny

Councillor D Drew

Councillor P Hurst

Councillor P Lashbrook

Councillor P Mutton

Councillor J Ray

Councillor I Richards

Councillor A Tupper

Chairman

Vice Chairman

WARD

Winton

Romsey Extra

Chilworth, Nursling and
Rownhams

Valley Park

Alamein

Millway

St Mary's

St Mary's

Harewood

Tadburn

Penton Bellinger

Penton Bellinger

Cupernham

Abbey

North Baddesley

Licensing Committee

Thursday, 08 September 2016

AGENDA

The order of these items may change as a result of members of the public wishing to speak

- 1 Apologies
- 2 Public Participation
- 3 Declarations of Interest
- 4 Urgent Items
- 5 Minutes of the meeting held on 16 June 2016
- 6 **Licensed Hackney Carriages and Private Hire Vehicles - Seating Capacity Policy** 4 - 8
A report recommending consideration of the existing Vehicle Seating Capacity Policy.
- 7 **Licensed Hackney Carriages and Private Hire Vehicles - Age Policy** 9 - 23
A report recommending amendment of the existing Licensed Vehicle Age and Condition Policy.
- 8 **Hackney Carriage and Private Hire Vehicle Drivers - Policy for applicants that have lived overseas** 24 - 28
A report recommending amendment of the existing Licensed Driver Policy as it relates to applicants that have lived overseas.

ITEM 6 Licensed Hackney Carriages and Private Hire Vehicles Seating Capacity Policy

Report of the Head of Legal and Democratic (Portfolio: Corporate)

Recommended:

That the current policy for licensing of hackney carriages and private hire vehicles, in respect of seating capacity, be retained.

SUMMARY:

- The Council has long since adopted a policy for vehicles licensed as hackney carriages and private hire vehicles of restricting the use of seats in certain types of vehicle which in the view of the Council do not afford passengers with sufficient space and comfort
- That policy has now been challenged by a Private Hire Vehicle Operator and it is necessary for the Committee to consider the appropriateness of that policy.

1 Introduction

- 1.1 The Borough Council has a statutory role in licensing hackney carriages (taxis) and private hire vehicles (minicabs). There are currently 43 of the former and approximately 200 of the latter licensed by the Council. There is no approved national standard for licensed vehicles. The only requirements in respect of private hire vehicles are that the vehicle is: suitable in type, size and design; in a suitable mechanical condition; and safe and comfortable. There is no similar legislative provision for hackney carriages although Test Valley, like most other local licensing authorities, applies the same vehicle standards to both hackney carriages and private hire vehicles

2 Background

- 2.1 A local Private Hire Vehicle Operator has sought to license a Kia Carens as a six seater vehicle. This is a multi-purpose vehicle (MPV) which in common with many vehicles of that type has a third rear row of seats comprising two stow-away style seats of a different design than a typical car seat. When the vehicle was presented for licensing the Council's Vehicle Inspector (Transport Manager, Environmental Services) declared that the vehicle could be licensed to carry four passengers i.e. the rear row of seats was discounted because in the view of the Vehicle Inspector they did not afford sufficient space and comfort to any passengers sat in those seats. The operator now wishes to challenge this decision which in practice means a challenge to the policy.

2.2 In 2007 the Council formally adopted a hackney carriage and private hire vehicle licensing policy. Many of the matters in that policy were already in place but had never been previously formalised. In respect of seating capacity the policy states *“that that the Council would **not** be prepared to license any vehicle where passenger comfort was questionable as in the case of a vehicle where leg room in some of the rear seats is limited. In such a case the Council Vehicle Inspector may recommend that the vehicle be licensed for a lesser seating capacity than the manufacturers specification. As at April 2016 the following vehicles fall into this category: Vauxhall Zafira; Volkswagen Touran; and Ford S-Max”*. The vehicles listed were those known at the time of its last revision not to comply with the policy and clearly the list will change from time to time as the Council becomes aware of similar vehicles. Officers have always encouraged vehicle operators to contact the Council if they are unsure as to whether a particular vehicle would be affected by this policy.

2.3 The legislative background for this policy is that Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 – which is the primary legislation for the licensing of Private Hire Vehicles – states that the Council may license a vehicle if they are satisfied that the vehicle is:

- (i) suitable in type, size and design for use as a private hire vehicle;
- (iv) safe; and
- (v) comfortable.

It is this legislation which allows the Council to license a vehicle for a lesser seating capacity than that specified by the manufacturer. The Council determines comfort not in terms of specifying a minimum measurement but in line with the above comments. It is the Council’s view that vehicles such as the Carens which have rear seats which fold into the floor do not afford sufficient leg room to provide an appropriate level of comfort to passengers.

2.4 The operator has asked if the Council would license the vehicle so that the rear two seats could only be used for children but the legislation does not allow the authority to distinguish between children and adults; the licence will state persons because it would be impractical to specify that a seat only be occupied by a child or an adult. The operator contends that both he and a colleague were able to sit comfortably in the rear seats, but the Council’s Vehicle Inspector believes that was not the case. By way of validation of the Council’s approach, officers found a review of the Carens on the internet at www.autoexpress.co.uk/kia/carens which confirms the Council view by stating that: *All Carens models sold in the UK come with seven seats, but the two rear seats are for occasional use only. They're a little tricky to get in and out of, while head, leg and foot room are in short supply.* Further reviews such as that on the What Car site states *“access to the rear seats isn’t great”* whilst Autocar comments that *“these additional seats do not adjust and, as is standard across most of the segment, are only suitable for the shortest legs and lowest heads in the family”*.

The operator further contends that the Council is showing bias by licensing vehicles such as the Ford Galaxy for its full seating capacity but that vehicle has ordinary seats that do not fold flat into the floor and accordingly offer far greater legroom and comfort; for this reason the Galaxy is licensed for its full capacity of six. In summary the policy of not licensing certain vehicles for their full seating capacity is adopted for the purposes of passenger comfort and in the case of the Kia Carens officers believe it is entirely justified in making this decision.

3 Corporate Objectives and Priorities

- 3.1 The licensing of hackney carriages and private hire vehicles is a statutory function which does not directly relate to the Council's corporate aims. However, the policy recommended for adoption will in the view of officers continue to maintain passenger comfort. Licensing of hackney carriages and private hire vehicles provides transport for the public who may not have any safe alternative means of transport available to them. The service provided by taxis plays a key role in the provision of an integrated public transport system.

4 Consultations/Communications

- 4.1 There have been no communications on this matter other than those between the operator and officers. The operator has in his correspondence to officers made the point that other authorities will license the Kia Carens for its full seating capacity of six persons; equally officers can find numerous authorities – Portsmouth, Southampton, New Forest, Havant and Basingstoke are those most locally – that will only license it to carry four persons; consequently it can be argued that this part of the operator's submission carries little weight. Copies of the operator's letters to officers have been provided to members of the Committee.
- 4.2 The Council's Vehicle Inspector recalls the operator contacting the Council to ask about the suitability of licensing the car as a six seater. The Inspector spoke to the operator at some length about seating capacity and configuration and also undertook an internet search on the car as he was not familiar with that model of car. He was unable to establish from the information available what legroom, etc. was provided for the rearmost seats and so suggested that the vehicle be inspected before being submitted for its formal testing so that the seating could be agreed. The Inspector does not remember whether at that time the operator had said he had already purchased the car but he does remember telling him that as a worst case scenario the car would be licensed as a four seater.

5 Options and Option Appraisal

- 5.1 As already mentioned there is no legal requirement to impose seating capacity limits or related standards regarding licensed vehicles. However, the introduction of such a policy was considered appropriate to ensure that maximum passenger comfort was achieved.

- 5.2 Whilst the licensing of hackney carriages and private hire vehicles must always be approached in the interests of the travelling public, the impact upon the trade cannot be ignored. However, other than the operator's complaint there is no evidence to suggest that the current policy has caused difficulties for any taxi operator. For those operators that wish to license a vehicle offering more than four seats there is a range of vehicles available that will provide a higher seating capacity without compromising on passenger comfort. For this reason alone it is the view of officers that the policy should be maintained. Alternatively, if the Committee feels that the current policy represents an unnecessary burden on operators and passenger comfort will not be compromised, it could consider removing the current restriction of not counting stow-away type seats when calculating seating capacity.

6 Resource Implications

- 6.1 There are no direct resource implications for the Council as a result of this report. In the view of officers retention of the policy will not lead to any noticeable reduction or increase in the number of licensed vehicles. It is far more likely that market forces will dictate the optimum number and type of licensed vehicles.

7 Legal Implications

- 7.1 Sections 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Borough Council to attach such conditions to hackney carriage and private hire vehicle licences as it "may consider reasonably necessary". It is the view of officers that restricting the use of stow-away seats such as those found in the rear row of seats in the Kia Carens is reasonable and necessary for the achievement of passenger comfort. The same legislation allows a licence holder who is aggrieved by a licence condition to appeal that to the Magistrates Court. However, such an appeal would need to be lodged within 21 days of the licence being issued and that has not happened on this occasion. If the Council's policy is upheld then it is conceivable that the operator could lodge an appeal upon the occasion of his vehicle licence next being renewed in June 2017.

8 Equality Issues

- 8.1 An Equalities Impact Assessment (EQIA) has not been undertaken as the proposed recommendation does not represent a significant policy change.

9 Other Issues

- 9.1 Community Safety – none directly although the proper licensing of hackney carriages and private hire vehicles reduces the opportunity of illegal plying for hire by unlicensed vehicles.
- 9.2 Environmental Health Issues – none.
- 9.3 Sustainability and Addressing a Changing Climate – none.

9.4 Property Issues – none.

9.5 Wards/Communities Affected – none directly but indirectly the whole Borough.

10 Conclusion

10.1 In the view of officers the existing vehicle seating capacity policy has achieved its aim of promoting passenger comfort. The Committee must consider whether this policy is over burdensome for the trade and whether removal is appropriate. Whilst the operator makes some good points about why his vehicle should be licensed for its full capacity of six passengers, officers believe it would not be best practice to lower a standard that has been applied with the best interests of the travelling public in mind.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Hackney Carriage and Private Hire Vehicle Licensing Guidelines			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	None		
Author:	Michael White	Ext:	8013
File Ref:	MW/		
Report to:	Licensing Committee	Date:	8 September 2016

ITEM 7 Licensed Hackney Carriages and Private Hire Vehicles Age Policy

Report of the Head of Legal and Democratic (Portfolio: Corporate)

Recommended:

That the licensed vehicle age policy in respect of vehicles licensed as hackney carriages and private hire vehicles attached as Annex 1 to this report adopted with effect from 1 October 2014 be amended with effect from 1 October 2016 as follows:

- 1. Subject to Recommendation 3 below, with effect from 1 October 2016 a vehicle first presented for licensing will only be licensed as a hackney carriage and private hire vehicle if it is no more than six years old.**
- 2. Subject to Recommendation 3 below, with effect from 1 October 2016 the upper age limit beyond which a vehicle will no longer be licensed as a hackney carriage or private hire vehicle be set at twelve years.**
- 3. With effect from 1 October 2016 the only exception to the policy set out in Recommendations 1 and 2 above will be for those private hire vehicles holding an exemption from displaying the vehicle plate by reason of the vehicle only being used for corporate bookings to transport employees and clients on corporate business journeys and/or airport and other journeys on special occasions.**
- 4. The Head of Legal and Democratic Services be given authority to depart from the policy in such cases where departure is justified.**

SUMMARY:

- The Council adopted with effect from 1 October 2014 an age and condition policy for vehicles licensed as hackney carriages and private hire vehicles
- It is appropriate to make minor adjustments to that policy providing flexibility for the taxi trade whilst maintaining current standards of vehicle safety and comfort.

1 Introduction

- 1.1 The Borough Council has a statutory role in licensing hackney carriages (taxis) and private hire vehicles (minicabs). There are currently 43 of the former and approximately 200 of the latter licensed by the Council. Legally there is no age limit above which a vehicle may not be used as a hackney carriage or private hire vehicle. The only requirements in respect of private hire vehicles are that

the vehicle is: suitable in type size and design; in a suitable mechanical condition; and safe and comfortable. There is no similar legislative provision for hackney carriages although Test Valley, like most other local licensing authorities, applies the same vehicle standards to both hackney carriages and private hire vehicles.

2 Background

- 2.1 Prior to October 2014 the Council's only policy requirement in respect of licensed vehicles was that once a vehicle reached six years of age it would be inspected and licensed every six months rather than annually. However, concern over the amount of older vehicles that were being presented for licensing led officers to recommend introduction of a vehicle age and condition policy; the policy is attached as Annex 1 to this report. The main elements of the policy were to introduce vehicle age limits; when a vehicle is first presented for licensing as a hackney carriage or private hire vehicle and also the age beyond which the vehicle will no longer be licensed. The justification for applying age limits is that a smart, modern fleet enhances the character of the Borough and makes licensed vehicles more attractive to the fare paying public. In addition, the removal of older vehicles improves safety standards and addresses environmental concerns as newer vehicles are required to meet increasingly stringent environmental, performance and safety standards.
- 2.2 It is the view of officers that the policy has generally worked well in reducing the overall age of the licensed vehicle fleet thus maintaining high standards for the safety and comfort of the travelling public. However, on a number of occasions since introduction of the policy the Borough Council has been asked to make exceptions to the policy. These have generally fallen into two categories; firstly drivers wishing to license a vehicle have complained that the age limit of five years for a vehicle when first licensed limits their ability to purchase a slightly older yet lower mileage vehicle which may be in a better condition than a younger vehicle. Secondly, the upper age limit after which a vehicle will no longer be licensed is currently set at 12 years but due to reduce to ten by 2017; a number of drivers have expressed a view that many vehicles aged ten are still in a good condition and could probably remain licensed for another couple of years before reaching a stage where they should no longer be licensed. Requests for making exceptions to the policy have been more pronounced amongst operators of 'higher end' vehicles undertaking corporate bookings and specialist journeys. As a result officers decided it would be appropriate to review the current policy.

3 Corporate Objectives and Priorities

- 3.1 The licensing of hackney carriages and private hire vehicles is a statutory function which does not directly relate to the Council's corporate aims. However, the policy recommended for adoption will in the view of officers continue to maintain public safety and comfort and address environmental concerns whilst providing a degree of flexibility for the taxi trade. Licensing of hackney carriages and private hire vehicles provides transport for the public who may not have any safe alternative means of transport available to them.

The service provided by taxis plays a key role in the provision of an integrated public transport system.

4 Consultations/Communications

- 4.1 Towards the end of 2015 officers consulted the trade over their views on the current policy and whether they felt there was a need to review the policy by sending the questionnaire attached as Annex 2 to this report to all vehicle owners; regrettably only 17 replies were received and the responses were largely inconclusive. Accordingly officers then decided to undertake their own research on the matter looking at the policies of other local authorities. In addition the views of the Council's Vehicle Inspector (Transport Manager, Environmental Services) were sought.

5 Options and Option Appraisal

- 5.1 As already mentioned there is no legal requirement to impose vehicle age limits or related standards regarding licensed vehicles. However, the introduction of the original policy was considered appropriate to prevent the licensed fleet comprising vehicles of any considerable age. Officers still believe that there is an argument to say older vehicles detract from the amenity of the Borough and there are also issues relating to vehicle safety and the environmental aspects associated with emission standards.
- 5.2 Whilst the licensing of hackney carriages and private hire vehicles must always be approached in the interests of the travelling public, the impact upon the trade cannot be ignored. There is evidence to suggest that the current policy has caused some difficulties for drivers particularly those wishing to replace an existing vehicle. In particular drivers have mentioned that the limit of five years for a vehicle when first licensed precludes them from purchasing an older vehicle which nonetheless may be lower mileage and in better condition than a comparable younger vehicle. However, officers are still of the view that there should be an appropriate limit and so only a slight revision of the existing policy is recommended increasing the maximum age from five to six for a vehicle when it is first licensed.
- 5.3 If a revision to the limit mentioned in paragraph 5.2 above is possible then it follows that there is the ability to revise the upper age limit beyond which the Council will no longer license a vehicle. At present this is set at 12 years, but will reduce to 11 years on 1 October 2016 and further reduce to ten years on 1 October 2017. It is the view of officers that a reduction to ten is excessive and a more appropriate upper age limit would be 12.
- 5.4 Whilst the above revised limits are considered appropriate for the majority of hackney carriages and private hire vehicles, the revised policy may cause an issue for some private hire vehicle owners. Private hire vehicles undertake an extremely broad range of services and include not only those providing more 'general' work such as trips to pubs, clubs and shops but also an increasing number of operators who specialise in a specific area of work. This can

include but is not limited to: those undertaking journeys only to and from air and sea ports; those working solely under a contract for one or more corporate clients; and those operating specialist vehicles such as limousines, novelty vehicles and minibuses adapted for disabled persons. Many of the licensed vehicles undertaking this type of work will tend to be higher marque or prestige vehicles such as BMW, Mercedes and Jaguar. Many operators of this type of vehicle make use of the ability within the legislation to seek exemption from displaying the private hire vehicle identification plate as they do not wish their vehicle to appear as a taxi or minicab. It is the view of officers that those vehicles granted plate exemption could be made an exception to the standard policy because of both the nature of the work undertaken and the vehicle itself. All other aspects of the existing policy would remain in place. For ease of reference the proposed changes are set out in Annex 3 to this report.

6 Resource Implications

- 6.1 There are no direct resource implications for the Council as a result of this report. It is possible that amendment of the current policy might lead to a slight increase in the number of licensed vehicles. However, it is far more likely that market forces will dictate the optimum number of licensed vehicles.

7 Legal Implications

- 7.1 Article 1 of the first protocol of the European Convention of Human Rights provides that every person is entitled to peaceful enjoyment of their possessions and a licence has been held to be a possession for the purposes of this legislation. However, this article does not inhibit the right of local authorities to enforce such laws as it deems necessary to control the use of possessions in accordance with the general interest. Arguably, refusing to renew a vehicle licence based upon age would interfere with this right. However, if the Committee takes a view that such interference is justified in the general interest then an age policy is permissible. Further support for the introduction of a vehicle age policy is that the majority of other local authorities have such a policy.

8 Equality Issues

- 8.1 An Equalities Impact Assessment (EQIA) has not been undertaken as the proposed recommendation does not represent a significant policy change. The policy in relation to the maximum permitted age for purpose built wheelchair accessible vehicles has not changed and recognises that the Council does not wish to see a reduction in the numbers of this type of vehicle as it would not wish to adversely impact upon the provision of public transport for wheelchair users.

9 Other Issues

- 9.1 Community Safety – none directly although the proper licensing of hackney carriages and private hire vehicles reduces the opportunity of illegal plying for hire by unlicensed vehicles.

- 9.2 Environmental Health Issues – none.
- 9.3 Sustainability and Addressing a Changing Climate – none.
- 9.4 Property Issues – none.
- 9.5 Wards/Communities Affected – none directly but indirectly the whole Borough.

10 Conclusion

- 10.1 The existing vehicle age and condition policy has achieved its aim of reducing the number of older vehicles thus producing a licensed fleet of more modern vehicles. However, there is a danger that the maximum age limits set by the policy may prove restrictive in terms of replacement of vehicles which is of concern to the trade when considering the significant financial outlay of purchasing a vehicle. Accordingly officers recommend a slight relaxation in the policy which should assist the taxi trade whilst maintaining the overall aim of improving the licensed vehicle fleet.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Report to Licensing Committee 18 July 2013			
Results of consultation exercise undertaken 2015			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	Three		
Author:	Michael White	Ext:	8013
File Ref:	MW/		
Report to:	Licensing Committee	Date:	8 September 2016

Licensed Vehicle Age Policy

Introduction

Hackney Carriage and Private Hire Vehicles are often one of the first points of contact for the travelling public and visitors generally and a smart and modern fleet enhances the character of the Borough and makes hackney carriages and private hire vehicles more attractive and comfortable to the fare paying public.

With this in mind Test Valley Borough Council will facilitate continuous vehicle fleet improvement and efficiency (whereby new vehicles are generally required to meet extant and increasingly stringent environmental, performance and safety standards) and improve vehicle standards and maintenance (by ensuring that vehicles are not already “tired” before being licensed and therefore more likely to withstand the rigours of use) by way of this policy.

Emissions

In recognition of the Council’s wider role, the licensing authority will normally seek to promote and encourage vehicle proprietors to invest in vehicles and related technologies that offer the best environmental standards in terms of emissions, the use of cleaner fuels, fuel and engine efficiency (i.e. performance) and end-of life recycling etc. By way of encouraging a well-maintained more sustainable, environmentally friendly and efficient fleet and subject to all other requirements being met, vehicles will only be licensed as a hackney carriage or private hire vehicle where on both first time application and subsequent renewal, the vehicle meets current emission standards as those required for a MOT.

Alternative Fuels

In recognition of their comparatively clean emissions, any vehicle that runs or has been suitably adapted to run on Liquid Petroleum Gas (LPG), Compressed Natural Gas (CNG) or Biomethane will normally be exempt from the European emission standards requirements. However, for reasons of safety and environmental efficiency, this exemption shall only apply to vehicles converted from diesel to one of the three alternative fuels given above (petrol conversions will not be eligible).

Vehicle age

It is proposed that when a vehicle is first presented for licensing it will be under five years old – taken from the DVLA first vehicle registration (as shown on the vehicle registration document V5) or, in the case of a vehicle first used outside of the UK, when first used on any other roads of any description. The vehicle will be inspected annually and licensed for a period of 12 months. When the vehicle reaches 6 years old – taken from the first date of the DVLA registration (as shown on the vehicle registration document V5) – it will be inspected by the Council’s Vehicle Inspector and licensed twice a year. When

a Hackney Carriage or Private Hire vehicle is approaching its' 6th birthday and it goes for a Council Inspection the following will apply. Example - A vehicle test is at the end of January and the vehicle becomes six years old during April of that same year; the Inspector will issue a certificate for a further 12 months, but at the vehicle's next test (January of the following year) when the vehicle is actually 6 years old, tests will become six monthly, together with the licensing of said vehicle.

Initially the vehicle may be licensed up until the age of 13 years old – taken from the first date of the DVLA Registration (registration document V5) and will then be reduced by a sliding scale down to the age of 10 years – taken from the DVLA first registration (registration document V5) date over a period of 4 years as follows:

1 October, 2014 vehicle over the age of **13** years will no longer be licensed.

1 October, 2015 vehicles over the age of **12** years will no longer be licensed.

1 October, 2016 vehicles over the age of **11** years will no longer be licensed.

1 October, 2017 vehicles over the age of **10** years will no longer be licensed.

The one exception to the above will be in respect of purpose built (i.e. not converted) wheelchair accessible vehicles which because of their specific construction are appropriate to be licensed until they are twelve years of age. This relaxation also recognises the substantial financial investment made by the owners of such vehicles. Introducing an upper age limit for licensed vehicles will assist in removing from the fleet older vehicles which do not meet more recent vehicle safety standards as set by the European New Car Assessment Programme (EuroNCAP). By way of an example, a 1997 Ford Mondeo has an adult occupancy safety score of 17 whereas the 2007 version of the same car has a score of 35. Ensuring the licensed vehicle fleet comprises more modern vehicles with higher safety standards reduces the potential for serious and fatal injuries resulting from vehicle accidents.

Vehicle standards

As Hackney Carriage and Private Hire Vehicles provide a service to the public **all vehicles regardless of age** will undergo the following inspection in conjunction with their annual/bi-annual test:

Exterior of vehicle

1. The exterior paintwork on the vehicle **should not**:
 - a) show signs of rusting/corrosion of any size;
 - b) be dull or faded or show signs of mismatched paint repairs;
 - c) have stone chips of any size anywhere on vehicles that have not been "touched up";
 - d) have any scratches, cracks or abrasions where the top layer of paint has been removed;

- e) have evidence of poor repairs and/or paint finish to repaired bodywork including runs and overspray to adjoining panels that detract from the overall appearance of vehicle; and
 - f) have heavy scuffing, abrasion or deformation to front or rear bumpers.
2. The exterior bodywork of the vehicle **should not**:
 - a) have a single dent of more than 80mm;
 - b) have 3 or more dents of not more than 20 mm;
 - c) have more than 4 scratches or abrasions provided that the base coat has not been penetrated; and
 - d) have body panels or fittings which are missing, broken or damaged. Vehicles will not fail on stone chips if there is evidence of “touching up”.
 3. Have wheels and wheel trims that have significant damage or corrosion which detracts from the overall condition of the vehicle.
 4. The vehicle must be submitted for inspection in a clean condition inside and out. Failure to comply with this requirement will result in the test being aborted.
 5. The engine compartment **must not** be in a dirty condition or have evidence of leaks including water, oil or hydraulic fluids.

Interior of the vehicle

6. The seating, carpet and headlining areas of the vehicle **shall not** show signs of:
 - a) staining
 - b) damp
 - c) fraying or ripping of the material
 - d) seat covers that are loose or badly fitted.
7. The seats should provide sufficient support for comfortable travel and **should not** demonstrate excessive compression of the seating or wear within the support mechanism.
8. Interior panels and fittings within the vehicle **should not** be broken, missing or damaged, nor show excessive wear or staining.
9. The interior of the vehicle **should not** have damp or other obnoxious smells.

These matters are set out in a sample inspection sheet that is attached as an annex to this document.

Summary

The Borough Council believes that introducing a vehicle age policy will result in a smart modern fleet which enhances the character of the Borough and makes hackney carriages and private hire vehicles more attractive to the fare paying public. Having a fleet of more modern vehicles will reduce the potential

for driver and passenger injuries and address environmental concerns by ensuring that stricter emission level standards are achieved. In summary the Borough Council is proposing that as from 1 October 2014:

- Newly licensed vehicles must be no more than five years old.
- Newly licensed vehicles must meet the current European emission standards in force at that time.
- There will be an upper age limit for vehicles beyond which they will not be licensed starting with vehicles aged over 13 years reducing to vehicles aged over 10 years (except purpose built wheelchair accessible vehicles which may be licensed until 12 years of age).
- Once a vehicle is more than 6 years old it must be inspected and licensed twice a year, not just annually (no change from the current policy).
- All vehicles when inspected will need to meet the bodywork and other standards detailed above.

Hackney Carriage/Private Hire Vehicle Inspection Report

Vehicles must be submitted for test in a clean condition inside and out. Failure to comply with this requirement will result in the test being aborted immediately.

1. The exterior paintwork:

Signs of rusting/corrosion of any size	Yes / No
Dull, faded or mismatched paint repairs	Yes / No
Stone chips of any size anywhere on vehicle that have not been “touched up”	Yes / No
Scratches, cracks or abrasions where the top layer of paint has been removed	Yes / No
Evidence of poor repairs and/or paint finish to repaired bodywork including runs and over-sprays to adjoining panels which detract from overall appearance of vehicle	Yes/ No
Heavy scuffing, abrasion or deformation of front or rear bumpers	Yes/ No

2. Exterior bodywork:

A single dent of more than 80 mm	Yes / No
3 or more dents of not more than 20 mm	Yes / No
More than 4 scratches or abrasions provided that the base coat had not been penetrated	Yes/ No
Body panels or fittings which are missing, broken or damaged	Yes / No
Wheels and wheel trims - any significant damage or corrosion which detracts from the overall condition of the vehicle?	Yes / No

Engine compartment - clean condition?	Yes / No
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3. Vehicle Interior – Seating, carpets and head-linings

Staining	Yes / No
Fraying or ripping of the material	Yes / No
Seat covers - loose or badly fitted	Yes / No
Seats - provide sufficient support for comfortable travel	Yes / No
Excessive compression or wear within the support mechanism	
Interior panels and fittings - broken, missing or damaged, excessive wear	Yes / No
Interior - damp or other obnoxious smells.	Yes / No

PASS		FAIL	
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All vehicles are **expected to meet the above criteria at EVERY Council Inspection.**

ANNEX 2

**Test Valley Borough Council
Licensed Hackney Carriages and Private Hire Vehicles
Age policy as from 1 October 2014**

Test Valley Borough currently operates the following policy in respect of vehicles licensed as a hackney carriage or a private hire vehicle:

- 1 October, 2015 vehicles over the age of **12** years will no longer be licensed
- 1 October, 2016 vehicles over the age of **11** years will no longer be licensed
- 1 October, 2017 vehicles over the age of **10** years will no longer be licensed.

The one exception to the above will be in respect of purpose built (i.e. not converted) wheelchair accessible vehicles which because of their specific construction are appropriate to be licensed until they are **12** years of age.

- Newly licensed vehicles must be no more than **five** years old
- Newly licensed vehicles must meet the current European emission standards in force at that time
- Once a vehicle is more than **six** years old it must be inspected and licensed twice a year, not just annually (no change from the current policy)
- All vehicles when inspected will need to meet bodywork and other vehicle condition standards

It is suggested that the current policy may be restrictive bearing in mind the current economic climate. As a suggestion, the Council could relax its policy so that when first licensed a vehicle must be no more than six years old. This would potentially make it easier for drivers needing to replace an older vehicle. In addition, it could revise the policy for the maximum age beyond which a vehicle will not be licensed to 12 years. This would mean that a driver could keep their vehicle for longer before needing to replace it. To help the Council review its policy and consider whether any changes need to be made we would be grateful if you would answer the following questions:

Name

Category (please tick one)

Hackney Carriage proprietor/driver Private Hire driver/operator

Other (Please state)

1. Do you believe the maximum age at which a vehicle is first licensed should be changed (currently it is no more than five years old)?

Yes or No

If yes, what should the maximum age be when a vehicle is first licensed i.e. if a vehicle is older than this the Council would not license it? (please tick the appropriate box)

Three

Four

Six

Seven

Eight

If more than eight years please say _____

Please can you give reasons for your answers or explain why you think there should be a different maximum age?

2. Do you believe the policy regarding the maximum age beyond which the Council will not license a vehicle should be changed? (As from 1 October 2015 the Council will not continue to license a vehicle once it is more than 12 years old and this will reduce over time so that on the 1 October 2017 the maximum age is ten years):

Yes or No

If yes, what should the maximum age be beyond which the Council would not continue to license it? (please tick the appropriate box)

Eight

Nine

Ten

Eleven

Twelve

If more than twelve years please say _____

Please can you give reasons for your answers or explain why you think there should be a different maximum age?

3. Currently the Council states that purpose built (i.e. not converted) wheelchair accessible vehicles, because of their specific construction, are appropriate to be licensed until they are **12** years of age. Do you think there should be a different policy for this type of vehicle?

Yes or No

Please give reasons for your answers and if you have answered yes please explain below what that policy should be:

4. Do you believe there should be any other changes to the policy including the bodywork and other vehicle condition standards?

Yes or No

If you have answered yes please give details

5. Do you believe the Council should allow any exceptions to its policy?

Yes or No

If you have answered yes, please indicate which type of vehicles you believe should be allowed to be licensed if they fall outside of the policy:

Prestige vehicles

Vehicles used solely on school contracts

Vehicles used solely on (other) contracts

Vehicles with exemption from displaying a plate

Other (Please say) _____

Are there any other comments you wish to add regarding the age and vehicle condition policy?

Thank you. Please return this questionnaire to:

The Licensing Section, Legal & Democratic Service, Test Valley Borough Council, Beech Hurst, Weyhill Road, ANDOVER SP10 3AJ

Alternatively you may fax the form to 01264 368005 or email your comments to licensing@testvalley.gov.uk

ANNEX 3

Test Valley Borough Council - Licensed Hackney Carriages and Private Hire Vehicles - Age policy

Policy area	Current policy	Proposed policy
Maximum age for vehicles when first licensed	Five years old	Six years old (unless meeting the exemption criteria below**)
Maximum age beyond which vehicle will not be licensed	Vehicles over the age of 12 years not licensed (reducing to 11 years on 01/10/2016)	Vehicles over the age of 12 years not licensed (unless meeting the exemption criteria below**)
Emission standards	Must meet the current European emission standards in force at that time	No change
Period of licence	Once a vehicle is more than six years old it must be inspected and licensed twice a year, not just annually	No change
Vehicle standards	All vehicles when inspected will need to meet bodywork and other vehicle condition standards	No change

** exceptions will in future only be granted to those private hire vehicles holding an exemption from displaying the vehicle plate. At present there are no specific criteria for such an exemption. In future it is proposed that exemptions only be granted where the vehicle is used only for:

1. Corporate bookings to transport employees and clients on corporate business journeys; and/or
2. Airport and other 'special' journeys.

The exemption specifically excludes vehicles being used as hackney carriages and for day to day private hire work such as pubs, clubs, shopping and similar journeys.

The exception will continue to apply until such time as in the opinion of the Council's Vehicle Inspector the vehicle no longer meets the bodywork and other vehicle condition standards.

ITEM 8 Hackney Carriage and Private Hire Vehicle Drivers Policy for applicants that have lived overseas

Report of the Head of Legal and Democratic (Portfolio: Corporate)

Recommended:

- 1. That subject to Recommendation 2 below, the existing policy in respect of applications for hackney carriage and private hire vehicle driver’s licences be amended with effect from 1 October 2016 so that any applicant who has from the age of ten lived overseas for any period of more than six months be required to provide a letter of good conduct or criminal records check covering that period of time.**
- 2. That where the applicant, through seeking asylum, is unable to comply with the requirements set out in Recommendation 1 above, an application may be accepted if the applicant can provide a five year checkable address history.**

SUMMARY:

- The Council adopted with effect from 1 January 2007 a policy in respect of applicants for a driver’s licence who may have lived overseas that they provide a criminal records check or other evidence of their not being convicted of a serious criminal offence whilst residing overseas.
- It is clear that some applicants are unable to meet this requirement and so a revision to the policy is recommended allowing persons to submit an application provided they have a five year checkable address history in the United Kingdom.
- The Committee will need to decide whether this revision conflicts with the Council’s legal responsibilities to only license “fit and proper” persons.

1 Introduction

- 1.1 The Borough Council has a statutory role in licensing hackney carriages (taxis) and private hire vehicles (minicabs). The Head of Legal and Democratic Services has delegated powers to issue, suspend, revoke and refuse hackney carriage and private hire vehicle drivers licences under the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976. It is necessary to consider a possible change in the driver licence application procedure and member approval of this change is required as it constitutes a change of policy that falls outside of the delegated powers of the Head of Legal and Democratic.

2 Background

- 2.1 The current procedures for the licensing of hackney carriage and private hire vehicle drivers requires all applicants to undergo an enhanced level criminal records disclosure with the Disclosure and Barring Service (DBS). The purpose of this check is to reveal any criminal convictions which in the view of the Council would make the applicant unsuitable to hold a driver's licence. Applicants must provide their address history for the last five years and for those who have resided in the United Kingdom the disclosure will reveal all convictions, cautions and admissions of guilt imposed since the age of ten, this being the age of criminal responsibility in England and Wales. For those applicants who have at any time since the age of ten resided overseas the current policy states *“a satisfactory letter of good conduct or similar documentation for the country or countries in which they have lived must also be available. Any costs associated in obtaining this documentation must be met by the applicant ... Applicants that have been granted permanent leave to stay in the United Kingdom as a result of seeking asylum should also obtain a letter of good conduct.”*
- 2.2 The reason for asking for this information is that the enhanced criminal records disclosure from the DBS only covers the period when somebody resides in the UK. Therefore an applicant that has lived abroad at any time from the age of ten could have conceivably committed a serious crime of which we would be unaware as it would not appear on the disclosure obtained from the DBS. The Council recognises that for persons such as asylum seekers who are unable to return to their home country or make contact with their embassy, it will not be possible for applicants to obtain such information from the country they previously resided in. In those cases we have asked for Home Office Immigration to provide a letter stating that to the best of their knowledge the applicant has not been convicted of any serious crimes prior to their entering the UK. Officers believe that previously the Home Office have provided such documentation but they have advised that they are now unable to do so. Specifically they comment that *“the checks carried out in relation to asylum claimants do not show if they have committed any crimes in their country of origin”*.
- 2.3 This presents a difficulty as section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states *“that a district council shall not grant a licence – unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence”* and it has been the view of officers that seeking this reassurance from the Home Office is an integral part of the Council meeting its legislative requirements. There are current sensitivities around the whole subject of driver licensing. The Committee will be aware of the Rotherham situation where the Casey report was overly critical of the lax approach taken by the local authority in its licensing of taxi drivers and more recently there has been a situation in South Ribble Council where two licensing officers have been suspended for failing to undertake proper checks on taxi drivers; two children were sexually assaulted by drivers. The Council is left in the situation that it could receive applications from persons who may be

unable to comply with the current requirements for checking their criminal records history and a decision must be taken as to whether such persons could be granted a licence albeit that it potentially could be at the expense of public safety.

3 Corporate Objectives and Priorities

- 3.1 The licensing of hackney carriages and private hire vehicles is a statutory function which does not directly relate to the Council's corporate aims. Licensing of hackney carriages and private hire vehicles provides transport for the public who may not have any safe alternative means of transport available to them. The service provided by taxis plays a key role in the provision of an integrated public transport system.

4 Consultations/Communications

- 4.1 This report has been produced as a result of an enquiry from a potential applicant who was an asylum claimant now granted leave to stay in the United Kingdom. Communications with the Home Office have identified that such persons cannot comply with the Council's current policy. In looking at the policies of other local authorities it is clear there is no consistent approach to this matter. Locally authorities such as New Forest, Portsmouth and Rushmoor all have the same policy as this Council i.e. that a full checkable history covering all periods since the age of ten must be provided. However, Southampton has a policy that an applicant must merely provide a five year checkable address history although even this has proved problematic for potential applicants that have only arrived in the UK in the last few years.

5 Options and Option Appraisal

- 5.1 As already mentioned any person who has resided outside of the UK for any length of time is required to provide evidence that they have not committed any offences outside of the UK as the DBS check only provides information as to offences that have occurred within the UK. The Council has to be satisfied that an applicant for the grant of a driver's licence is "fit and proper". As part of that process the Council needs to undertake a comprehensive check so that it can be satisfied that the travelling public are protected, particularly children and vulnerable adults. This has been of particular prominence nationally especially in respect of concerns surrounding child sexual exploitation in Rotherham and Oxford.
- 5.2 It is appreciated that those who have come to the UK seeking asylum are in the predicament of being unable to furnish the required information. Members of the Committee will need to determine if the protection of the public is the overriding consideration if so then being unable to provide the required information, by default the Council is unable to establish that an individual is "fit and proper" to be working in such a position of trust. Alternatively the Committee may take the view that in sympathy for those potential applicants who find themselves in the situation of being unable to obtain criminal records information from their home country, it will be sufficient for such persons to

have resided in the UK and have a checkable five year address history. Members will need to determine whether this is a sufficient compromise in respect of those persons who have found themselves in unfortunate circumstances. A five year checkable address history is recommended on the basis that if a potential applicant has the propensity to offend they would do so during this time.

6 Resource Implications

- 6.1 There are no direct resource implications for the Council as a result of this report. It is unlikely that any change in policy will significantly impact upon the number of driver applications received.

7 Legal Implications

- 7.1 Article 1 of the first protocol of the European Convention of Human Rights provides that every person is entitled to peaceful enjoyment of their possessions. There is some debate as to whether a driver's licence has been held to be a possession for the purposes of this legislation. This article does not inhibit the right of local authorities to enforce such laws as it deems necessary to control the use of possessions in accordance with the general interest. Arguably, refusing to grant a driver licence based merely upon whether somebody had lived overseas would interfere with this right. However, a license is being granted on the basis of whether the authority is satisfied that an applicant is a "fit and proper" person to hold such a licence. Further support for the approach of applying criteria for any applicant that has lived overseas is that the majority of other local authorities have such a policy.

8 Equality Issues

- 8.1 An Equalities Impact Assessment (EQIA) has not been undertaken as the proposed recommendation does not represent a significant policy change. It has been suggested that requiring persons that have lived outside of the UK to provide a criminal record history is discriminatory but there is no legal basis for such a view. Indeed court cases such as Cherwell District Council v Anwar have shown that the need to only license a person if they are "fit and proper" is of paramount importance and so it can be argued that complying with this must be the foremost priority of the Council.

9 Other Issues

- 9.1 Community Safety – none directly although the proper licensing of hackney carriages and private hire vehicles reduces the opportunity of illegal plying for hire by unlicensed vehicles.
- 9.2 Environmental Health Issues – none.
- 9.3 Sustainability and Addressing a Changing Climate – none.
- 9.4 Property Issues – none.

9.5 Wards/Communities Affected – none directly but indirectly the whole Borough.

10 Conclusion

10.1 The existing licensed driver policy was introduced to ensure that the Council fulfils its legal responsibilities in only granting a licence if it is satisfied that the applicant is “fit and proper”. It is clear that certain applicants – particularly asylum seekers and similar persons – are unable to meet the existing policy as currently worded. Accordingly a revision to the current policy is recommended which would assist those applicants that have sought asylum in the United Kingdom and are unable to comply with the current requirements. Members will need to decide if adopting this revision compromises the Council’s legal responsibilities in the matter.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Report to Licensing Committee 16 November 2006			
Emails with Home Office June 2016			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	None		
Author:	Michael White	Ext:	8013
File Ref:	MW/		
Report to:	Licensing Committee	Date:	8 September 2016