

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, is 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 been challenged by a Private Hire Vehicle Operator and was considered by this Committee as its October meeting where a further report on the matter was requested.

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 At the meeting of this Committee held on 8 September members considered a report advising that a local Private Hire Vehicle Operator had sought to license a Kia Carens as a six seater vehicle. This action effectively represented a challenge to the current policy of excluding the rear row of seats in vehicles where in the view of the Vehicle Inspector they do not afford sufficient space and comfort to any passengers sat in those seats. A copy of this report is attached as Annex 1 to this report.

- 2.2 Despite officers recommending that the current policy be retained, the Committee expressed, by a clear majority, a wish to remove the policy. The actual resolution was as follows: *That the current policy for licensing of hackney carriages and private hire vehicles in respect of seating capacity be retained, but that the Licensing Manager be requested to investigate, and to report back as soon as possible upon the possibility of introducing a trial period for this type of vehicle to allow them to operate up to a six passenger capacity.* Members also expressed a wish to ensure that the travelling public were able to comment upon any issues associated with such a change and that any feedback was collected and reported back to the Committee at a future date when a decision could be made whether to permanently remove the 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. 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 Original communications on this matter between the operator and officers were reported at the September meeting. There is no change to the position that local authorities adopt a mixed approach to this subject with some authorities licensing the Kia Carens (and other similar vehicles) for its full seating capacity of six persons whilst numerous other authorities will exclude stow-away type seats and only license vehicles to carry four persons.
- 4.2 Since the September meeting officers have raised the issue with James Button, the UK's leading taxi licensing lawyer who has in the past provided training to this Committee. His view is that the Council is justified in retaining a policy of excluding rear seats but from the point of view of safety rather than comfort. Mr Button takes the view that in any scenario where a seat has to be moved to gain access to the rear seats then this is inherently unsafe and provides sufficient justification to exclude such seats for licensing purposes. He comments that whilst a vehicle may be considered safe for use a private motor vehicle, once licensed the vehicle should be viewed as a commercial passenger carrying vehicle and its use considered in that way. This could potentially allow the Council to adopt a more stringent approach to use of the vehicle. There is a concern that the Council could be liable in the event of an accident involving a licensed vehicle where passengers in the rear row of seats were unable to exit the vehicle safely.

5 Options and Option Appraisal

- 5.1 There is no legal requirement to impose seating capacity limits or related standards regarding licensed vehicles. However, the introduction of a seating policy was considered appropriate to ensure that maximum passenger comfort was achieved. Officers are still of the opinion that retention of a limit can be justified on grounds of passenger comfort and – in light of the comments in paragraph 4.2 above – also that of passenger safety.
- 5.2 Alternatively the Committee may want to see the policy removed. Officers have considered how this can be best achieved and whilst the Committee had suggested a trial period for the removal of the policy this approach would in the view of officers leave some uncertainty for vehicle operators. Therefore if the Committee decides not to accept the recommendation and instead resolves to remove the policy, it is recommended that the policy is removed in its entirety and the impact of that decision reviewed after a suitable period of time has passed to allow for any feedback although it is unlikely that any would be received.

6 Resource Implications

- 6.1 There are no direct resource implications for the Council as a result of this report. It is unlikely that the removal of the policy will lead to any noticeable reduction or increase in the number 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”. This is the legal provision under which the Council is able to restrict the use of stow-away seats such as those found in the rear row of seats in the Kia Carens. The same legislation allows a licence holder who is aggrieved by a licence condition to appeal that to the Magistrates Court. Retention of the policy may potentially result in a challenge whereas removal of the policy is unlikely to be challenged by any licence holder as it will potentially be to their benefit.

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 achieved its aim of promoting passenger comfort. The views of James Button suggest there is also a valid reason for retaining the policy in terms of passenger safety. The Committee will need to determine if this additional information justifies reconsideration of the decision taken at the last meeting where the Committee felt that this policy is potentially over burdensome for the trade and removal is justified. If the Committee is minded to pursue removal of the policy it would be appropriate to allow a period of time for any feedback regarding the removal.

<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:	1		
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