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**TO: CHAIR AND MEMBERS OF
THE LICENSING COMMITTEE
FOR 26 JULY 2004**

ITEM FOR DECISION

REVIEW OF POLICIES AND CONDITIONS – HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES, DRIVERS AND OPERATORS

1.0 PURPOSE OF REPORT

- 1.1 To revisit the Council's conditions and policies relating to the licensing of hackney carriages, private hire vehicles, drivers and operators in the light of representations and application from Members of the Trade.

2.0 RECOMMENDATIONS

- 2.1 Members consider Trade representations in relation to the policies and conditions referred to at Section 5 of this report.
- 2.2 Members confirm that the conditions and policies do not require referral to the Council's Executive as no changes are required.

3.0 FINANCIAL IMPLICATIONS

- 3.1 None to the Council.

4.0 INFORMATION

- 4.1 On 15 December 2003, following earlier applications from 6 Hackney Carriage Proprietors and one Private Hire Operator for exemption from the Council's condition prohibiting advertising on vehicles, Members deferred consideration of this matter, referring it to the Council's Executive. At the same time Members also decided that all other conditions and policies should be revisited given that the last review of these had taken place in August 1997.
- 4.2 On 16 December 2003 a consultation letter was sent to all vehicle proprietors, the Hackney Carriage Association and all Private Hire Operators advising that the Council was revisiting its conditions and policies and in particular the issue

advertising on vehicles. Responses were requested by 30 January 2004 and the Trade was advised that the matter would also be on the agenda of the forthcoming Taxi Consultation Forum on 20 February 2004.

4.3 Members are aware that as a result of this consultation a report on advertising was considered by the Executive on 8 June 2004 and a decision was made to permit limited suitable advertising on Hackney Carriages and Private Hire Vehicles. Members of this Committee then determined at their meeting on 5 July 2004, what would be deemed unsuitable in terms of such advertising.

4.4 In addition to the responses on advertising the Hackney Carriage Association and two other Trade Members made representations concerning other conditions and policies. These are outlined below with a rationale for the requirement and Officer comments.

5.0 RESPONSES FROM THE TRADE

5.1 SWIVEL SEATS

The current policy requires all saloon hackney carriages to have a front passenger swivel seat for ambulant disabled travellers. This requirement was accepted by the hackney carriage trade in 1992 when the Council's requirement to change to fully wheelchair accessible vehicles was dropped. One hackney carriage proprietor has requested that the requirement should be optional and that proprietors who do not use the seats should be entitled to take them out.

Officer Comments – The swivel seat should be available to all passengers who have difficulty in accessing vehicles. This gives added choice to people with walking and other difficulties who prefer the comfort of a saloon vehicle. As such seats are currently required in vehicles no additional burden will be incurred

5.2 FARE TARIFF

The Council currently sets a maximum tariff based on formal requests from the hackney carriage trade and a full consultation process with the trade and advertisements in the press. The last exercise took place on 01.11.03. One proprietor has now requested an increased tariff from 11pm – 6am daily as he believes it would encourage more drivers to work.

Officer Comments – As this request was received only 2 months after a full consultation exercise which resulted in increased tariffs it would be inappropriate to commence a further, costly consultation once again at this time. When the Hackney Carriage Association make their request for increased tariffs at a future date this could then be consulted upon also.

5.3 NO SMOKING

The Council required that drivers do not smoke in their vehicle without the consent of their passengers. In practice most vehicles display no smoking signs but often drivers smoke when their vehicles are empty. One proprietor has requested that a sign should be required to prohibit smoking and consumption of alcohol in taxis.

Officer Comments – Many licensed vehicles currently display no smoking signs. This matter can be addressed by drivers advising passengers that the vehicle is a no smoking zone and similarly a no alcohol zone. It would be useful if proprietors also advised drivers that they must not smoke in their vehicles, as it is difficult to expect passengers to comply if drivers do not. It would be virtually impossible for the Council to enforce a no smoking rule on passengers and therefore this should be dealt with as a business issue by the proprietors.

5.4 AGE OF VEHICLES

The Council's current policy is to initially licence only vehicles under 3 years of age and then continue to licence them only until they are 6 years of age with the exception of purpose built London Cab style vehicle which may be licensed until 10 years of age. Such a policy has improved the quality of our fleet, particularly in the light of the number of miles covered by an average taxi per year. A direct comparison is Stockton Council who do not have such a requirement and have a poorer quality fleet. The exception in Middlesbrough is for exceptionally well maintained vehicles, which are presented in 'show room condition'. Members have approved such vehicles periodically and one is currently still licensed. The Hackney Carriage Association has requested that the 6 year age limit be removed because of the high number of licensed vehicles in Middlesbrough.

Officer Comments – As stated exceptionally well maintained vehicles can apply for an exemption to the age policy and therefore the removal of the restriction is unnecessary.

5.5 APPEARANCE OF HACKNEY CARRIAGE

The Hackney Carriage Association has requested a new condition requiring wheelchair passenger access from side doors only on the grounds of safety. The Council currently licences the Fiat Doblo which is rear loading. As this vehicles has motability approval it would be difficult to refuse to licence it on safety grounds.

Officer Comments – The licensing of the Fiat Doblo has had the effect of greatly increasing the availability of wheelchair accessible vehicles for disabled passengers. Officers could not justify such a condition given that the Doblo has been accredited under the Government's motability scheme.

5.6 CONVICTIONS

The Council currently requires that all drivers with 9 or more penalty points or a history of poor driving are referred to the Licensing Committee and those who have gained such points for poor driving are required to undertake the Driver Improvement Scheme. This requirement reflects the need for a higher standard of driving from vocational drivers. The Hackney Carriage Association has requested that 9 be changed to 12 and that a 'history of poor driving' be removed from the policy based on the fact that a driving licence is valid up to 12 points.

Officer Comments – A higher standard of driving must be required for vocational driving. The 12 point total which generally result in disqualification applies to all drivers. If 'taxi' drivers reach 9 points it is imperative that their poor driving is addressed, hence the Driver Improvement Scheme.

5.7 RESTRICTION OF HACKNEY CARRIAGE NUMBERS

A request has been made by the Hackney Carriage Association for any further hackney carriage vehicle licences to be stopped forthwith pending a survey into unmet demands for wheelchair accessible vehicles.

Officer Comments – The trade has been advised on numerous occasions of a Crown Court ruling on 13 December 2001 when the Court upheld an appeal by 2 companies and one individual against the Council's refusal to grant more than 20 wheelchair accessible vehicles. The Court's view was that until the whole hackney carriage fleet was wheelchair accessible there could never be a survey which would prove no unmet demand. Members are also reminded of the recent OFT recommendation to remove restrictions from Local Authorities and the Government's response to permit Local Authorities to retain the power to restrict but to justify it publicly by March 2004, with a view to further consideration being given to de-restriction.

5.8 BYELAWS RELATING TO USE OF HACKNEY CARRIAGE RANKS

The Hackney Carriage Association wish the current byelaw to be amended to make passengers use the front vehicle suitable to their needs.

Officer Comments – Unfortunately the Council cannot legislate to prevent freedom of choice by the passenger. The Hackney Carriage Association has also requested a new byelaw requiring feeder ranks to be used at all times when ranks are full. This should be happening already purely as an issue of common sense for drivers and does not require a change to the byelaws.

5.9 DRIVING STANDARDS AGENCY (DSA) TEST

Officers are bringing to the attention of Members a recent Magistrates Court decision (13 July 2004) overturning Darlington Council's requirement that current licensed drivers undertake the DSA test prior to renewal of licence. Darlington Council, at the time of preparing this report, considering an appeal against this decision.

Officer Comments – As the DSA test requirement at Middlesbrough Council only applies to new drivers or drivers who have been disqualified from driving and then apply to regain their Hackney Carriage/Private Hire Vehicle licences, this ruling does not have any bearing on this Council's current policies and conditions.

6.0 OTHER INFORMATION

6.1 In addition to the information detailed in Section 5 of this report, a number of other issues have been raised as follows:-

- (1) Use of bus lanes – not a licensing issue and currently being investigated by Engineers.
- (2) Use of hackney carriage by unlicensed persons – the legislation specifies that with the exception of a vehicle driven for an MOT test all drivers must be licensed. The Council cannot overturn this legislation despite requests from the Hackney Carriage Association to do so.

- (3) Refusal to carry passengers – once again the legislation covers this area, whereby drivers who refuse to carry a passenger without reasonable cause can be prosecuted. The Council again cannot overturn this legislation. If however the driver can show he had reasonable cause to refuse to carry a passenger he would not be prosecuted.

7.0 CONCLUSION

- 7.1 The rationale of the Licensing regime is to protect the Public. Conditions attached to licences are required to be reasonable. Any licence holder who does not think a condition is reasonable can appeal to the Magistrates Courts within 21 days of grant of licence. No appeals have been lodged to date in relation to the conditions detailed at 5.1 – 5.3 and 5.5 – 5.8. There have been appeals in the past in relation to the 6 year age policy of the vehicle and the Courts have always upheld the Policy. Members are therefore invited to determine there is no need to refer to Executive to amend the current policies and conditions.

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