

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2016 - 2017

LICENSING COMMITTEE

7th June 2016

**REPORT OF:
Service Director
Public Health and Protection**

<u>Item No. 5</u>

Introduction of 'Intended Use / Remote Trading Policy' for Hackney Carriages.
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1. PURPOSE OF REPORT

To consider the outcome of the trade consultation in respect of the proposed implementation of an Intended Use / Remote Trading Policy and the response from of the Service Director of Public Health & Protection.

2. RECOMMENDATION

Members are requested to:

- (i) Note that Consultation was conducted with the trade, which resulted in no written comments being received.
- (ii) Commend the policy identified as **Appendix 1C** to the Executive for adoption and implementation as soon as possible.

3. BACKGROUND

At the meeting of this committee held on 20th October 2015, Members were asked to:

1. note the content of the report which outlined proposed changes to be implemented into technical standards / conditions of licence.
2. Support the proposal of the Service Director of Public Health and Protection for the change of policy advocated in respect of intended use / remote trading of Hackney Carriages.
3. Further consider the proposals in the light of any responses received, subject to the completion of a trade consultation exercise which may or may not generate amendment to the proposals.

A copy of the report and relevant minute is reproduced for information as **Appendix 1A**.

3.1 Trade Consultation

- (i) In line with proposals in the report, a trade consultation was undertaken via the Taxi Newsletter November 2015 edition. This was sent to all vehicle licensees and drivers. A copy of the same is reproduced for Members information as **Appendix 1B**. This required drivers and operators to respond with comments by close of business on 21st December 2015.

3.2 Trade Consultation Response

Members may wish to note that no written responses were received by the Licensing Authority following the expiry of the consultation process.

4. CONCLUSION

In view of the lack of responses, it is recommended that the Intended Use policy to be added to the vehicle specification / conditions of licence, as detailed. The implementation will make a significant contribution to protection of public safety where vehicles are found to be trading exclusively outside RCT.

A copy of the revised Vehicle Specification / conditions of licence for licensed vehicles, (which incorporates all the changes detailed) is reproduced for information as **Appendix 1C**.

Paul J Mee
Service Director of Public Health & Protection

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**MUNICIPAL YEAR 2015 - 2016: REPORT NO.****LICENSING COMMITTEE****20th October 2015****REPORT OF:****Service Director****Public Health & Protection**

Part I	Item No.
Introduction of 'Intended Use/ Remote Trading Policy' for Hackney Carriages	

1. PURPOSE OF THE REPORT

The purpose of the report is to:

- Consider the risk to public safety presented by the remote trading of Hackney Carriages in other Authority areas;
- Consider an appropriate policy to mitigate such risk.

2. RECOMMENDATION

Members are requested to: -

- (i) Note the content of the report which is provided for information;
- (ii) Support the proposal of the Director of Public Health & Protection for the change of policy advocated in respect of intended use/remote trading of Hackney Carriages;
- (iii) Note the proposal of the Director of Public Health & Protection to undertake a short consultation with the licensed trade on the draft policy, with the outcome to be reported to a future meeting of this Committee.

3. BACKGROUND

The licensing regime which incorporates Hackney Carriage & Private Hire Vehicles exists to provide a control over a trading activity, where the absence of such control could present a significant risk to public safety.

On this basis, there are a number of controls which govern the suitability of persons issued with licences and also how those licences operate. In very general terms, Hackney Carriages can be hailed from the highway (or pre booked) and Private Hire Vehicles MUST always be pre booked.

3.1 Legal Precedent

In 2008 a High Court Judgement – Newcastle City Council v Berwick upon Tweed established a principle that it was lawful for Hackney Carriages to trade as Private Hire Vehicles, (accepting only pre bookings) in a local authority area other than that which issued the licences, (the home authority).

The judgement in itself was acceptable, in that many licensed vehicles trade to some extent in areas other than the home licensing authority where licences are issued. For example, residents of Rhondda Cynon Taf may wish to travel to or from neighbouring Boroughs, such as Cardiff, Vale of Glamorgan, Caerphilly, Newport, or Neath Port Talbot and this generally does not present a problem to the trade or the travelling public, being a legitimate aspect of a journey.

However, the case precedent arose as a result of a challenge from a licensing authority (Newcastle City Council) against a neighbouring licensing authority (Berwick Upon Tweed) where there was a considerable disparity between standards of vehicles, conditions of licence and fees.

There were a disproportionate number of licence applications, (both personal and vehicle), in Berwick upon Tweed, where applicants sought to take advantage of less stringent conditions of licence and preferential fees, although vehicles and drivers were actually intending to trade exclusively in Newcastle.

The position of Berwick upon Tweed was that the less stringent conditions and lower fees applied to their licences were proportionate to the local conditions and supported a viable fleet in their Borough.

The position of Newcastle City Council was that the less stringent conditions and lower fees detracted from their ability to promote public safety in a city centre environment, with a consequential risk to the travelling public.

As a result of the decision that such activity was indeed lawful, several licensing authorities identified 'out of area' vehicles trading in their Boroughs and took steps to eliminate such trade. This primarily affected larger cities, but more recently all types of areas have been affected.

The principle of local control is important and a licensing authority will set out its regime to ensure that its statutory obligations to provide a service are met, subject to the specific needs its area – **with the understanding that such vehicles and drivers will trade primarily within that area.**

3.2 Risk to Public Safety

The key risk to public safety is that only the home licensing authority has enforcement powers to deal with any offences/anomalies and where trading

areas are a considerable distance apart this undermines effective enforcement & control to the detriment of the travelling public.

It is accepted that, in principle, that this activity is NOT unlawful, but it can present certain difficulties which have the potential to compromise public safety in the following manner:

- the Licensing Authority which issues the licence will not easily keep their licensed fleet under proper control;
- enforcement powers have to be exercised at a distance;
- the Licensing Authority in whose district a remote vehicle has chosen to operate has no enforcement powers over the vehicle in its area;
- the remote vehicle will not be subject to the same conditions & By-Laws as local vehicles
- the concept of local control is undermined

Discretion is afforded to a Licensing Authority as to whether to grant a licence - or not. The exercise of that discretion should be considered in the context of public interest, for the protection of public safety in a manner consistent with the local policy objectives of the issuing authority – without adverse impact to neighbouring Authorities.

3.3 The Rhondda Cynon Taf Position

A review of out of area licensees has been conducted and as at 28th September 2015, the position is as follows:-

Area	No. of Vehicle Licences	No of Driver Licences	Comment
Cardiff	25	57	Licensed Drivers Leasing vehicles from RCT Licensees and trading in RCT
Newport	13	6	All vehicles licensed to one operator/licensee
Bridgend	1	7	
Caerphilly	13	4	All vehicles licensed to one operator/licensee
Merthyr	3	5	
Bristol	2	3	
Insurance Companies with Registered Offices in other areas.	6		Use of replacement vehicles following accident damage etc

Having examined the circumstances and applications of various licensees, there is limited concern that the practice of 'out of area' /remote trading is prevalent for Rhondda Cynon Taf vehicles & drivers at this time. However, there is some concern with persons making application from the Bristol area, given the distance to the boundaries of Rhondda Cynon Taf and this is reinforced by information received from Bristol City Council.

Officers are currently liaising with Bristol colleagues to consider licences in force, together with evidenced trading practice. (It is possible that such licences may be the subject of separate review by this Committee.) In order to illustrate the level of concern from larger Authorities who are subject to the practice of remote trading, a copy of a letter sent by Bristol City Council to several Authorities is reproduced for information **as Appendix A**

(NOTE: This letter DOES NOT refer to Rhondda Cynon Taf CBC and is reproduced for information only.)

There is currently no provision that requires an applicant to live within the Borough where application is made and to do so may be considered disproportionate. However, it is possible to consider this factor as an element of the 'fit & proper person' criteria when determining applications for grant of licences.

3.4 Way Forward

Having conducted a review of existing licensees and concluded that this is not a major issue at this time for Rhondda Cynon Taf, it is prudent to consider the future.

Best practice advocates that prevention is better than cure and it is clearly preferable to apply closer scrutiny to applications, with the prospect of challenge prior to grant as opposed to review of a licence when trading activity becomes a problem.

In order to assist in this challenge process, it is proposed that the 'Technical Specification/Conditions of Licence', with specific reference to Hackney Carriages be amended to reflect a structured policy statement for dealing with appropriate applications. This will support any subsequent challenges to applications that may need to be made and also strengthen any challenge at appeal.

(Members are reminded that an appeal has already been lodged in respect of a revocation of licence, primarily due to remote trading, determined at the meeting held 2nd September 2015)

A copy of the draft policy proposal is reproduced for information as Appendix B.

3.5 Conclusion

It is considered to be in the wider public interest to recognise the potential for out of area/remote trading of Hackney Carriages to compromise public safety and to take steps to prevent it. It is proposed that the draft policy be the subject of a short consultation with the licensed trade and that the outcome of the consultation be the subject of a further report to this Committee.

In the interim period, Members may be required to review licences of persons who are identified as trading remotely 'out of area' and presenting a risk to public safety. Whilst the adoption of a formal policy will make the process more robust for the future, legal advice confirms that any reviews of licences that may be required can still proceed in the interim period, (prior to formal adoption of the policy), in order to satisfy the wider public interest test.

Consequently it is recommended that Members:

- (i) Note the content of the report which is provided for information;
- (ii) Support the proposal of the Director of Public Health & Protection for the draft policy advocated in respect of out of area/remote trading of Hackney Carriages;
- (iii) Note the proposal of the Director of Public Health & Protection to undertake a short consultation with the licensed trade on the draft policy, with the outcome to be reported to a future meeting of this Committee.

Paul J Mee
Service Director Public Health & Protection

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reply to: P.S. POWELL
 telephone: 01179 - 222293
 fax: 01179 - 223436
 e-mail: pauline.powell@bristol.gov.uk
 our ref: PSP/CA3.1869
 your ref:
 date: 02 March 2015

Dear Sir

Hackney Carriages licensed by your authority but being operated in Bristol

I am writing to you in your capacity as Monitoring officer in connection with your Council licensing hackney carriages and hackney carriage drivers in a way that appears to be contrary to case law. The practice is detrimental to public safety and protection in Bristol so I should be grateful if you would prioritise this matter.

You will be aware that Bristol is a large city. As such it is not surprising that high standards have been established in respect of the licensing of hackney carriages and drivers. In regard to the vehicles this is in order to ensure, among other things, that they are: suitable to transport our diverse population, safe, comfortable and do not disproportionately impact on air quality levels. In respect of the licensing of drivers procedures and standards of fitness seek to ensure, among other things, that the drivers are fit and proper persons able to assist passengers, both inhabitants of Bristol and visitors to our city, by providing a high quality and professional service, including transportation of vulnerable children and adults who are at particular risk of harm from those who would abuse their position of trust to engage in opportunistic crime.

The means by which the council seeks to achieve these outcomes include an expectation that all Hackney carriages will be:-

- coloured Bristol blue;
- comfortable and accessible to wheelchair users
- new on first licence application, with a minimum of four doors and suitable for carrying passengers safely, comfortably and with easy access and egress
- compliant with European community whole vehicle type approval

Legal Services
 PO Box 3176
 Bristol City Council
 BS13 9FS

DX 7827 Bristol

Sanjay Prashar,
Interim Service Director - Legal

Website
www.bristol.gov.uk



Applicants for drivers licenses are expected to provide information to prove that they satisfy the fit and proper person test to the standard expected in Bristol, including:-

- certificate of medical fitness;
- satisfactory disclosure and barring service check, which is assessed against the council's robust policy on the impact of offending conduct for taxi drivers;
- satisfactory driver information provided by the DVLA;
- DSA pass certificate;
- knowledge test training certificate;
- BTEC road passenger vehicle driving certificate;
- world host training certificate

The council has in place procedures under which those applicants whom officers consider to fall short of the standard expected by the council are afforded the right to a hearing, usually before a committee or subcommittee of elected members, who will determine whether to grant or refuse their application for a licence.

The council therefore makes strenuous efforts to ensure public safety and protection of residents and visitors. Our aim is that they will enjoy a high standard of service when travelling around the city in what is essentially quasi-public transport.

You will readily appreciate that it would be a significant concern if vehicle proprietors and their drivers could avoid these well considered protective measures (and/or the relatively high licence fees needed to support them) merely by seeking a licence from other authorities with less stringent standards and consequently lower licence fees and then plying their trade in Bristol without the agreement of this Council.

The consequence of lower standards of regulation can be serious as events in Rotherham make clear. Bristol's fit and proper person policy has developed over many years in full consultation with experts, including those concerned with child protection, in order to leave this council in the best position to avoid licensing those with criminal motives who would take the opportunity to abuse their position of trust. It will be obvious that any council that licences those wishing to work wholly or mainly in another local authority's area risks significantly undermining public protection in that other area. I am told that your authority falls into this category in that you are licensing vehicles and drivers who are mainly working in Bristol and thereby sidestepping our robust standards.

In making these observations no criticism is intended of the licensing standards set by your council. The legislation is deliberately framed to enable local councils to set conditions as they see fit for their area. However, the fact that vehicle proprietors and drivers are apparently securing hackney carriage licences in your area for the main or even sole purpose of using that licence to engage in private hire work in Bristol is a real and pressing concern. Bristol's carefully developed regulatory framework is being significantly undermined by what is happening in other councils and we want to work with you to quickly regularise the position.

Legal Services
PO Box 3176
Bristol City Council
BS13 9FS

DX 7827 Bristol

Sanjay Prashar,
Interim Service Director - Legal

Website
www.bristol.gov.uk



I am enclosing for your information a copy of the judgement of Mr Christopher Symons QC in the case of The Queen on the application of Newcastle City Council-and-(1) Berwick-upon-Tweed Borough Council and others. I particularly draw your attention to paragraph 31:-

“in my judgement a local authority, properly directing itself, is entitled, and indeed obliged, to have regard to whether the applicant intends to use the licence to operate a Hackney carriage in that authority’s area and also to have regard to whether in fact the applicant intends to use that hackney carriage predominantly, or entirely, remotely from the authority’s area. This should result in each local authority licensing those hackney carriages that will be operating in their own area and should reduce the number of Hackney carriages which operate remotely from the area where they are licensed”

and further at paragraph 34:-

“... it would seem to me to be difficult for any local authority to justify exercising their discretion by granting a hackney carriage licence to an applicant when the authority knows that the applicant has no intention of using that licence to ply for hire in its area. This is particularly so when the local authority also knows that the intention is to use the Hackney carriage in an area remote from that authority’s area.”

You will note that the court made a declaration (see paragraph 59) including that:-

- (i) in the proper exercise of its statutory discretion under section 37 of the Town Police Clauses Act 1847 a licensing authority is obliged to have regard (a) to whether the applicant intends that Hackney carriage if licensed will be used to ply for hire within the area of that authority, and (b) whether the applicant intends that hackney carriage will be used (either entirely or predominantly) for private hire remotely from the area of that authority.”

The council has evidence that your authority is one of those to whom certain Bristol-based applicants have applied for and then obtained a hackney carriage licence and then use that licence for private hire work mainly or predominantly in the Bristol area. The scale of the problem is not insignificant; it is believed that there are between one and two hundred ‘out of town’ hackney carriages being used to satisfy private hire bookings in our area and many more out-of-town licensed drivers driving them. Some of the drivers licensed have sought authorisation elsewhere having failed to satisfy the fit and proper person test in Bristol and not one of the vehicles that have been licensed by other councils meets the standards expected in this city. Not only does this undermine Bristol’s public protection work but it also directly impacts upon the right of those who do meet the standards to use their properly obtained authorisation for their livelihood. You will readily appreciate that individuals who are properly licensed enjoy rights under the European Convention on Human Rights. Article 1 of protocol 1 and article 8 in particular appear to be engaged by the actions of councils who licence vehicles and drivers when they know, or should know, that the applications ought to have been firmly rejected leaving those who have been

Legal Services
PO Box 3176
Bristol City Council
BS13 9FS

DX 7827 Bristol

Sanjay Prashar,
Interim Service Director - Legal

Website
www.bristol.gov.uk



properly licensed free to earn their living unimpeded by the actions of those who do not have the required licence from Bristol.

My client expects your council to work with us to rectify this sorry state of affairs without delay. We expect:-

- (i) that your council will urgently review all current licences issued to applicants (whether for vehicle or driver licenses) giving a Bristol address (or giving an address elsewhere but it is known or suspected that they are mainly working in Bristol) and require the licensees to produce evidence that they are using the licence mainly or predominantly in your area;
- (ii) that in respect of those who are unable or unwilling to produce such evidence, the licence or licences issued will be revoked;
- (iii) that your council will review its application procedures to ensure no recurrence;
- (iv) that your council will provide me with an extract from your hackney carriage register of all proprietors or part proprietors with a Bristol address
- (v) that your council will provide copies of all driver licence application forms that resulted in the grant of a licence to an applicant with a Bristol address

I hope this situation can be remedied quickly and without the need for Bristol to engage in litigation as was necessary in the Newcastle case referred to above and similar cases. I look forward to hearing from you shortly what your council intends to do.

Yours Faithfully,

Sanjay Prashar
Service Director-Legal and Monitoring
Officer for the City Council of Bristol

Legal Services
PO Box 3176
Bristol City Council
BS13 9FS

DX 7827 Bristol

Sanjay Prashar,
Interim Service Director - Legal

Website
www.bristol.gov.uk

DRAFT ProposalAmendment to 'Technical Specification/Conditions of Licence for Hackney Carriage & Private Hire Vehicles''Intended Use' /Remote Trading of Hackney Carriages**1. Introduction**

1.1 The purpose of this policy is to set out how the Licensing Authority will deal with applications for grant, renewal and transfer of Hackney Carriages following the High Court Judgement – Newcastle City Council v Berwick upon Tweed [2008] EWHC 2369 (Admin) and its impact on remote trading of Hackney Carriages.

- 1.2 The Council will determine each application on its merits, but will place public safety above all other considerations, seeking to maintain local control in respect of its licensed fleet.

2. Applications for the GRANT/RENEWAL of a Hackney Carriage Licence

- 2.1 Applicants for licence will be expected to demonstrate a bona fide intention to trade primarily within the administrative area of Rhondda Cynon Taf County Borough Council under the terms and conditions of the licence for which application is being made. There will be a presumption to **REFUSE** an application for a Hackney Carriage Licence for persons who **DO NOT** intend to trade to a material extent within the administrative area of Rhondda Cynon Taf County Borough Council.

- 2.2 Where the applicant intends to operate to a material extent in Rhondda Cynon Taf and the intention is to trade in another Authority area also for a substantial amount of time, (and it appears that the purpose of the legislation and public safety will be frustrated), **there will be a presumption REFUSE the application.**

3. TRANSFER of Interest in licensed Hackney Carriage (*where an existing licensed vehicle is transferred from one person to another*)

- 3.1 Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 requires that the proprietor of the licensed vehicle who transfers his interest to another **MUST**, within 14 days of the transfer, give written notice to the Council of the name and address of the Transferee of the Hackney Carriage, (i.e. the person receiving the licence). The Council has no power to refuse to register the new proprietor and provided that the requisite Notice of Transfer has been given in accordance with section 49 of the Local Government (Miscellaneous Provisions) Act 1976, **in the format required by the Authority**, the Transferee of a licensed Hackney Carriage will be registered as the current licensee.

3.2 Transferees of licences will be expected to have a bona fide intention to operate within the administrative area of Rhondda Cynon Taf County Borough Council under the terms and conditions of the licence in respect of the vehicle being transferred. Transferees should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required for the purpose of carrying out their functions under the legislation. Where there is a failure to provide the requested information; the Council will consider exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming.

3.3 Where the Transferee of a licensed Hackney Carriage:

- Proposes to operate remotely from the administrative area of Rhondda Cynon Taf County Borough Council;
- has no intention to trade to a material extent within the administrative area of Rhondda Cynon Taf County Borough Council;
 - and/or intends to trade in another Authority area also for a substantial amount of time;
 - and it appears that the purpose of the legislation and public safety will be frustrated,**there will be a presumption that the licence will be revoked.**

4. Revocation of licence

Where a licence has been granted under the terms that the applicant intends to operate to a material extent within the administrative area of Rhondda Cynon Taf County Borough Council but is subsequently found to be trading remotely, in another Authority area for a substantial amount of time, (and it appears that the purpose of the legislation and public safety will be frustrated), **there will be a presumption that the licence will be revoked.**

5. Exceptional circumstances

Each application will be decided on its merits. However the presumptions for refusal or revocation of licence for remote trading in an Authority other than Rhondda Cynon Taf will be rebuttable in exceptional circumstances. It will be a matter for the applicant/licensee to demonstrate exceptional circumstances and to satisfy the Licensing Committee that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed, not suspended or revoked (as the case may be).

ENDS

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LICENSING COMMITTEE

Minutes of the meeting held at the County Borough Council Offices, The Pavilions, Cambrian Park, Clydach Vale on Tuesday, 20th October 2015 at 5:00pm.

PRESENT

County Borough Councillor A. S. Fox – in the Chair

County Borough Councillors

(Mrs) T. A. Bates	B. Morgan
S. A. Bradwick	S. Powderhill
(Mrs) S. J. Jones	G. Smith
(Mrs) C. Leyshon	L. Walker
C. Middle	E. Webster
I. Pearce	T. Williams

Officers in Attendance:

Mr P J Mee - Service Director, Public Health & Protection

Mrs R. Smith - Solicitor

Mrs M. D. Williams – Licensing Manager

Mr L. Morgan – Assistant Licensing Manager

23. APOLOGIES FOR ABSENCE

An apology for absence was received from County Borough Councillor (Mrs) J. Cass and (Mrs) M. Tegg.

24. DECLARATIONS OF INTEREST

There were no disclosures of personal interests in matters pertaining to the agenda.

(A declaration of personal interest was declared later in the meeting to which Minute No.30 (3) refers)

25. HUMAN RIGHTS ACT 1998 AND CRIME AND DISORDER ACT

RESOLVED – to note that when Members determine the licensing and registration matters before them, they have a duty not to act in a manner that is incompatible with the convention on Human Rights and the Crime and Disorder Act.

26. MINUTES

RESOLVED to approve as an accurate record the minutes of the meeting of the Licensing Committee held on the 8th September 2015.

REPORTS OF THE SERVICE DIRECTOR PUBLIC HEALTH AND PROTECTION

27. INTENDED USE/REMOTE TRADING POLICY FOR HACKNEY CARRIAGES

The Service Director, Public Health & Protection presented his report in respect of the intended use/remote trading policy for Hackney Carriages which considers both the risk to public safety presented by the remote trading of Hackney Carriages in other Authority areas and an appropriate policy to mitigate such a risk

Members of the Committee were provided with background information in respect of remote trading and informed that in 2008 the principle was established that it was lawful for Hackney Carriages to trade as Private Hire Vehicles (accepting only pre bookings) in a local authority area other than that which issued the licences, (the home authority). Committee was informed that although lawful, public safety can be compromised in a number of ways.

Members were provided with a summary of out of area licences for Rhondda Cynon Taf and concern raised in connection with applications specifically from Bristol due to the distance between the boundaries of the two areas. It was stated that Licensing Officers are currently liaising with colleagues in Bristol to monitor the issue.

The Service Director, Public Health & Protection clarified the position of Rhondda Cynon Taf following a review of the existing licences and advised Members of the draft proposal policy which sets out how the Local Authority will deal with future applications for grant, renewal and transfer of Hackney Carriages following the High Court Judgement in 2008 and the impact on remote trading of Hackney Carriages. It was proposed that the draft policy is subject to a short consultation with the licensed trade and the results subsequently shared with this Committee at a future meeting.

Following discussion of the report it was **RESOLVED** to:-

- i. Note the content of the report which is provided for information
- ii. Support the proposal of the Director of Public Health & Protection for the draft policy advocated in respect of out of area/remote trading of Hackney Carriages;

- iii. Note the proposal of the Service Director, Public Health & Protection to undertake a short consultation with the licensed trade on the draft policy, with the outcome to be reported to a future meeting of this Committee

28. LICENCES AND REGISTRATIONS ISSUED UNDER THE PROVISION OF DELEGATED POWERS

In his report, the Service Director, Public Health and Protection presented Members with details of licences and registrations issued during the period 24TH August to the 4th October 2015. Following consideration of the report it was **RESOLVED** to note the content.

29. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED – that the press and public be excluded from the meeting under Section 100A(4) of the Local Government Act, 1972 (as amended) for the following items of business on the grounds that they involve the likely disclosure of exempt information, as defined in paragraph 12 of Schedule 12A of the Act, namely, information relating to a particular individual. Transparency in the conduct of Local Authority business is desirable; however personal data relating to the conduct and capabilities of individuals will be discussed and considered. Consequently, it is considered the public interest in maintaining the exemption outweighs the public interest in disclosing information

30. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 – REVIEW OF FIT & PROPER PERSON CRITERIA (JOINT HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER LICENCE AND/OR HACKNEY CARRIAGE LICENCES)

In his report, the Service Director, Public Health and Protection set out details of four reviews of 'Fit & Proper Person' criteria which were before Members for their consideration.

Also, in view of the urgency of the matter and with the permission of the Chairman, the Service Director, Public Health & Protection presented his supplementary report outlining the need to review an additional Hackney Carriage/Private Hire Vehicle Driver Licence.

At this juncture in the proceedings it was announced that Mr ALK of Bristol was not yet in attendance therefore with the permission of the Chair it was agreed to consider the remainder of the agenda items until such time that the Licensee arrives.

- 1) The Service Director Public Health & Protection advised Members of the Committee that Ms NSB of Tonypany was not in attendance before Members so that a review of the Hackney Carriage Licence could be considered due to illness. Committee **RESOLVED** to defer determination of the application to the next appropriate meeting of the Licensing

Committee, to afford her the opportunity to present herself to Members so that they can consider the review and that failure to attend on a second occasion will result in the matter being determined in her absence.

- 2) Pursuant to the meeting held on the 8th September 2015, Minute No. 29 (1) refers, when Mr AAM of Cardiff failed to present himself before Committee due to a prior commitment, the Service Director Public Health & Protection presented his report in respect of the review of his Hackney Carriage/Private Hire Vehicle Driver Licence following a conviction for a further offence and failure to disclose the matter at the time of application for a licence.

In accordance with adopted procedures Committee received Mr AAM of Cardiff who confirmed the offences and details within the report were correct, subject to it being noted that there was a correction to his house number. Mr AAM of Cardiff continued to outline the circumstances surrounding his convictions. During the proceedings South Wales Police were asked to provide their views on the case before them.

Following consideration of the evidence before them Committee **RESOLVED** to allow the Joint Hackney Carriage/Private Vehicle Licence Driver Licence of Mr AAM of Cardiff to continue with a strict warning regarding future activity.

(Note: Prior to the applicant leaving the meeting, the Chairman emphasised the need to have due regard to the warning issued by the Committee as failure to do so may affect determination of future applications)

- 3) Pursuant to the meeting held on the 8th September 2015, (Minute No. 29 (2) refers), when Mr RJT of Aberdare failed to present himself before Members of the Committee as he was unable to secure transport to the meeting, the Service Director, Public Health & Protection presented his report outlining the review of Mr RJT's suitability to hold a Joint Hackney Carriage/Private Hire Vehicle Driver Licence following a complaint recorded against him.

In accordance with adopted procedures, the Committee received Mr RJT of Aberdare who confirmed the details within the report were correct. The licensee proceeded to outline the circumstances surrounding the disclosure made by South Wales Police of a complaint from a passenger regarding a journey undertaken on the 26th July 2015 and his suitability to continue in the role of a licensee for Rhondda Cynon Taf.

(Note: On listening to the evidence before them County Borough Councillor S. A. Bradwick informed the Chairman that he would declare a personal and prejudicial interest in this matter as he believed he may know a person the licensee had referred to. Accordingly, County Borough Councillor S. A. Bradwick left the meeting for this item).

Mr RJT of Aberdare responded to questions posed by the Service Director, Public Health & Protection and Members of the Committee. The South Wales Police Officer was also called upon to provide their view on the matter.

Following consideration of the written and oral evidence before them, Members **RESOLVED** to revoke the licence of Mr RJT of Aberdare as they were of the opinion that he did not meet the fit and proper person criteria required to hold a Hackney Carriage/Private Hire Vehicle Driver Licence in view of the serious nature of the disclosure submitted by South Wales Police and the risk presented to public safety.

- 4) In accordance with adopted procedures the Committee received Mr SL of Treherbert, who was before Members so that a review of his Joint Hackney Carriage/Private Hire Vehicle Driver Licence could be undertaken following the suspension of his licence as a result of a road traffic accident on the 18th August 2015.

The Licensee explained the circumstances surrounding the road traffic accident which led to the suspension of his Joint Hackney Carriage/Private Hire Vehicle Driver Licence, (with immediate effect in the interest of public safety) and he also provided details of his medical history. Two other incidents of concern relating to the licensee were also brought to Members' attention, the details of which were corroborated by the South Wales Police officer present.

Following lengthy deliberation, Committee **RESOLVED** to revoke the licence of Mr SL of Treherbert as it considered that he did not meet the 'fit and proper' person criteria required to hold a Joint Hackney Carriage/Private Hire Vehicle Driver Licence. Whilst the Committee were aware that Mr SL's income was reliant on his occupation as a 'Taxi Driver', the key consideration of the Committee was the protection of public safety and the action of revocation was therefore considered necessary in the wider public interest.

- 5) Following confirmation that Mr AIK of Bristol was now in attendance Committee received the licensee who was before them so that a review of his licences could be undertaken following a complaint and disclosure by Avon and Somerset Police.

The Licensee outlined the circumstances surrounding the events which led to the review being brought against him. Mr AIK of Bristol responded to questions posed by the Service Director, Public Health & Protection and Members of the Committee. This included confirmation that, to date, Mr AIK had not traded for hire & reward within the County Borough of Rhondda Cynon Taf on any occasion, trading solely in the Bristol area. Members expressed concern at the potential compromise to public safety arising from his trading activity and the implications of enforcing conditions of licence such a considerable distance from the 'Home Authority'.

Following deliberation as to whether Mr AIK of Bristol was considered to be a 'fit and proper' person to hold Licences with Rhondda Cynon Taf it was **RESOLVED**:-

- (i) **Joint Hackney Carriage/Private Hire Vehicle Driver Licence** -To revoke the Joint Hackney Carriage/Private Hire Vehicle Driver licence with immediate effect in the interests of public safety
- (ii) **Hackney Carriage Licence** –To revoke the current licence

31. ENFORCEMENT SUMMARY

The Service Director, Public Health & Protection presented his report to Committee and updated Committee with the most recent activity relating to the taxi trade, enforcement activity and school transport checks for the period 24th August to the 4th October 2015.

The Service Director Public Health & Protection concluded his report and confirmed that there is one prosecution for the period and it was **RESOLVED** to note the content which had been provided for information only.

32. SUMMARY OF LICENCES ISSUED UNDER PROVISION OF DELEGATED AUTHORITY

In his report the Service Director, Public Health and Protection provided a summary of Licences and/or Registrations issued under provisions of Delegated Authority for the period 24th August to the 4th October 2015 and it was **RESOLVED** to note the report.

A. S. Fox
Chairman

The meeting closed at 7.10pm



TAXI

NEWS

Vehicle Test Due in December 15 / January 16?

Operators please be aware that the Vehicle Testing Station will close for taxi and private hire vehicle tests on 23rd December 2015 and will not reopen for testing until the 4th January 2016. If your vehicle is due an interim, a yearly or a retest between these dates then book your vehicle in early!!

Correct Tariff / Tariff Banner on display?

Following a number of recent reports, Hackney drivers, please ensure that your Tariff Banner is on display and that you are charging the correct fee dependant on the time. Any queries contact Licensing Officers.

Touting of fares

Licensed Drivers are not permitted to tout or solicit fares. Should you engage in this activity, you might pick up more than you bargained for!!

Smoking in licensed vehicles

SMOKING IN LICENSED VEHICLES IS NOT PERMITTED.

This has been the case for a number of years. However the Licensing Authority has received a number of complaints about drivers smoking in vehicles. If you are caught you are likely to face enforcement action and review of your Joint Hackney Carriage / Private Hire Vehicle Driver Licence.

'Fit and Proper?'

ABUSIVE / INAPPROPRIATE BEHAVIOUR.

Drivers / operators are reminded of the 'fit and proper' person criteria that is applicable to all licensees. This applies whether or not you are driving your vehicle at the time. Foul or abusive language or behaviour used towards vehicle testing station or licensing staff will not be tolerated.

Failure to disclose

Drivers are reminded that failure to disclose Convictions, Cautions, or Fixed Penalty Notices within 28 days could result in an automatic review of your Joint Hackney Carriage / Private Hire Vehicle Driver Licence before the Licensing Committee, with a potential risk to your livelihood.

Change of Address / Contact details

To ensure you continue to receive reminders or correspondence from the Licensing Authority, please advise the Licensing Team of any change of address / contact telephone number as soon as possible.

Lost Property

Thanks to all drivers who have handed in wallets, handbags, keys and mobile phones to taxi marshals or at the Council Offices. We have been able to reunite grateful passengers with their misplaced property. Please continue to check your vehicles after each fare. Your honesty and integrity is viewed positively by the public and serves to promote the positive professional image of the licensed trade!!!

Keep up the good work!!

Consultation - Intended Use/Remote Trading Policy

What are we doing?

- The Licensing Authority is proposing to make an amendment to the 'Technical Specification/ Conditions of Licence', with specific reference to Hackney Carriages.
- The changes are unlikely to affect the majority of licensees trading in Rhondda Cynon Taf, but it is necessary to make licensees aware of any proposed policy changes and to seek views on the proposals.
- A revised policy will be introduced to control the use of Hackney Carriages, **where trading is exclusively outside RCT and vehicles are used as Private Hire Vehicles ONLY**
- **A copy of the Licensing Committee report explaining the issues in detail is available on the Council's website, or on request from Licensing Officers at Ty Elai.**

Why are we doing it?

- Liaison with other Local Authorities, in particular Bristol CC confirms that there have been several licensees who choose to licence vehicles and drivers with RCT, **but trade exclusively elsewhere.**
- The effect of the trading activity is that the Home Authority (RCT) has very limited control over the vehicle and drivers trading a considerable distance away.
- In addition, the Authority where such vehicles are trading has no enforcement powers to address any concerns re trading activity, all powers being retained by the Home Authority.

- The outcome of this is a potential compromise to public safety, which undermines the purpose/intent of the licensing regime.

How will proposed policy change affect RCT Licensees?

- There will be no impact for any RCT licensee who trades primarily in RCT and who also conveys passengers to destinations that may be outside the Borough. These journeys will not be affected. A Hackney Carriage cannot ply for hire in a neighbouring Authority area. However in certain circumstances it can collect a fare on a 'pre booked' basis.
- For example, if you are conveying passengers to Bristol Airport, this is a legitimate transaction; it is also perfectly appropriate to accept a pre booked fare from Bristol Airport.
- Licensees who hold RCT licences are expected to trade primarily in the Borough. Where this is found not to be the case, the relevant licences will be reviewed by the Licensing Committee with a prospect of revocation should inappropriate trading be proved.

How do licensees comment on the proposals?

Comments must be made in writing and can be submitted by letter or e-mail by close of business on the 21st December 2015 in order that responses can be summarised for a further report to the Licensing Committee.

Questions and Answers

Do you have a burning question to ask a Licensing Officer?

provided and we will aim to provide a response.

Are you in need of any advice?
If you answered YES to either of the above, please send us through your questions using the contact details

A copy of all application forms and conditions can be obtained from the Licensing Section.

Licensing Section,
Ty Elai, Dinas Isaf East,
Williamstown, Tonypanyd CF40 1NY
Telephone: 01443 425001
Fax: 01443 425301
Licensing.Section@rctcbc.gov.uk

Rhondda Cynon Taf
County Borough Council

**Technical Specification/
Conditions of Licence**
for Hackney Carriage/
Private Hire Vehicles
as at 1st September 2014



1. VEHICLE SPECIFICATION

1.1 Technical Specification / Vehicle Type

To be eligible for licence as a Hackney Carriage/Private Hire Vehicle, a vehicle must meet the following technical standards:

Have European Community M1 type approval, which includes

- a. Whole European Type approval, or
- b. UK Low Volume/Small series Type Approval for Passenger cars
- c. UK Individual Vehicle Approval

and must comply with the Road Vehicles (Construction and Use) Regulations 1986

1.2 Modified vehicles

Motor vehicles which have M 1 type approval (European Community Whole Vehicle Type Approval) and have been MODIFIED or have been subject to ANY ALTERATIONS since manufacture will be considered, provided that they are provided with:

- a. UK Low Volume/Small series Type Approval for Passenger cars; OR
- b. UK Individual Vehicle Approval

1.3 Exception

UK Individual Vehicle Type approval will **not be accepted where:**

- a. the seat belts fitted to the vehicle are not those fitted by the manufacturer and tested in accordance with the vehicle's original type approval; OR
- b. where the vehicle has been fitted with seating/ Wheelchair tracking which may invalidate the original type approval for any seats fitted to the vehicle, except where evidence is produced by the applicant that this is not the case.

NOTE: The purpose of the required certification is to ensure that modified vehicles carry a nationally recognised accreditation and safety standard. It is the responsibility of the applicant to present the vehicle with appropriate documentation. A failure to do so will result in refusal to accept the vehicle as suitable for licence.

Motor Vehicle which have **N Type Approval** (European Community Whole vehicle type Approval) will not normally be considered unless they are presented with UK Low Volume/Small Series Type Approval for Passenger Cars.

1.4 M2 Vehicles (Usually 8+ Seat Passenger Vehicles)

M2 type approval vehicles will be accepted for licence in recognition of the need for Operators to be able to maintain the flexibility of their vehicle to accommodate either multiple wheelchair passengers, or a combination of both wheelchair & non wheelchair passengers, (up to a maximum of 8).

In order to be licensed, this type of vehicle would need to **permanently** reduce the seating capacity to **no more than 8 passenger seats, including wheelchair passengers.** Consequently such vehicles would need to be adapted or modified.

Certification in respect of modifications would then be required, namely:

1. The Certificate of Initial Fitness (COIF) (to provide historic evidence that seat & seatbelt anchor points meet VOSA standards; AND
2. Low Volume National Type Approval
3. European Whole vehicle Type approval; (items 2 & 3 are normally issued by the vehicle convertor or manufacturer and any certification costs usually form part of the purchase price of the vehicle).

1.5 Grandfather Rights

A vehicle licence is issued for a specific vehicle for a maximum period of one year. At the end of that one year period, the licensee may apply for further licences up to the end of the vehicle's 'licensable life', **subject to maintaining the fitness of the vehicle.**

'Licensable life' of the vehicle will be assessed using;

- the date of first registration of the vehicle;
- conditions of licence in force at the time the respective licence was granted.

The relevant date will appear on the paper copy of the vehicle licence held by the licensee, or where the licence was issued prior to the introduction of changes to licences (1/4/14), the licensable life can be confirmed by Licensing Officers on request.

On reaching the end of 'licensable life' date, any vehicle licence in force at that time will be allowed to continue to expiry of that particular licence - provided the fitness of the vehicle is maintained. No further applications for licence will be considered in respect of the vehicle.

Any subsequent application for licence made by the licensee will be subject to the criteria detailed in this policy statement.

Licensees who wish to replace their existing vehicle during the currency of a licence, before the expiry of the 'licensable life' will be required to comply with the revised vehicle specification detailed in the policy statement.

2. AGE OF VEHICLES

2.1 Grant of Licence

Admission Age of Vehicles

Type of Vehicle	Type of Licence	Minimum Age	Maximum Age
Wheelchair Accessible Vehicles; (to include 'Purpose Built; OR Adapted Vehicles with/or without Tail Lift)	Hackney Carriage/ Private Hire Vehicle	Less than 5 years old (from date of first registration) (Admission Age)	10 years (provided each subsequent licence takes effect immediately upon expiry of the previous licence).
Non Wheelchair Accessible Vehicles	Hackney Carriage/ Private Hire Vehicle	Less than 3 years old (from date of first registration) (Admission Age)	10 years (provided each subsequent licence takes effect immediately upon expiry of the previous licence).

2.2 Consecutive Licences

Following the GRANT of a first licence for a vehicle at the 'Admission Age' specified above, the vehicle will continue to be accepted for licence until it reaches the end of 'licensable life' as detailed on the licence.

The acceptance of the vehicle for subsequent licences after the 'admission age' will be subject to the following criteria:

- The continuing fitness/suitability of the vehicle;
- That each licence takes effect immediately upon expiry of the previous licence

Should a vehicle licence be allowed to expire/lapse, any subsequent application for licence shall be treated as a new application with the requirement that it satisfies the criteria set out in this policy. Vehicles will not be accepted for licence in excess of their 'Admission Age' (as detailed above).

2.3 Exceptional Circumstances

Licensees are encouraged to make timely applications to ensure that vehicle licences run consecutively from 'admission age' to 'end of licensable life'.

However, where the proprietor of a vehicle can demonstrate EXCEPTIONAL CIRCUMSTANCES to the satisfaction of the Chairman/ Vice Chairman, together with the Director of Public Health & Protection that the failure to make an application prior to expiry of the current licence was due to circumstances beyond his/her control, an application may be considered.

When considering such an application, the Service Director will have regard to the trading profile of the licensee, the test history of the vehicle and any ancillary information considered relevant to the determination of the application.

2.4 Vehicle Replacement Policy

To assist owners who wish to be able to change vehicles during the period of an existing licence, the Council will operate a 'replacement vehicle policy' This will allow the existing licence to be surrendered and a new one year licence granted for the replacement vehicle. Any vehicle presented for licence must comply with the specifications contained in this policy.

There is no basis in legislation for the TRANSFER of VEHICLE LICENCES from VEHICLE TO VEHICLE and this transaction is therefore not permitted.

3. VEHICLE LIVERY/COLOUR Hackney Carriage

The vehicle must be **BLACK in colour**, (or any other colour specified by the Council at the time of licensing).

3.1 Private Hire Vehicle

The vehicle must be **WHITE in colour**, (or any other colour specified by the Council at the time of licensing).

4. INTERIOR SPECIFICATION

4.1 The vehicle must be suitable in type, size, design and colour as a Hackney Carriage/Private Hire vehicle and comply with the following requirements;

- a. be a car fitted with four road wheels, have at least four doors and be right hand drive
- b. be of adequate seating capacity and head and knee room etc.as follows;

4.2 Height (Inside)

From the top of the seat cushions to the roof at the lowest part must not be less than **81.3 cms (thirty-two inches)**.

4.3 Knee Space

The measurement between the squab of the seat and the rear of the seat in front, and in the case of all front seats from the squab of the seat to the console or any part of the vehicle immediately in front of the seat must not be less than 27 inches or 68.5 cms.

For the purposes of this condition the squab of the seat will be the point at which the front of the backrest on the vertical axis meets the seat cushion on the horizontal axis, and will be measured from the outermost point of seat cushion.

*This measurement will **not apply** to the middle, rear seat where a centre console between the two front seats protrudes beyond the rear of the front seats. The*

discretion of the Licensing Officer will be used to assess the suitability of the knee space available to fare paying passengers.

4.4 Seat (Width)

The width of the back seat from the squab to the front edge must not be less than **45.7 cms (eighteen inches)**.

Where the vehicle is purpose built & wheelchair accessible, the discretion of the Licensing Officer will be used to assess the suitability of the seat width available to fare paying passengers, giving due regard to the specialist nature of the vehicle.

4.5 Rear Seat (Length)

The length of the rear seat measured in a straight line, lengthwise on the front of the seat must be such as will allow adequate sitting accommodation to the extent of at least **40.6cms (sixteen inches)** per person.

5. PASSENGER SEATING CAPACITY/CONFIGURATION

5.1 The vehicle must be of sufficient seating capacity to carry at least four and not more than eight passengers in addition to the driver. The seating capacity shall be determined in accordance with paragraphs (i) (a) and (i)(b) and paragraph (ii) of Regulation 42 of the Road Vehicles (Registration & Licensing) Regulations 1971.

5.2 Multi Purpose vehicles

The Licensing Authority is committed to licensing different types of vehicles as either Hackney Carriage or Private Hire Vehicle, the suitability of the seating configuration will be a matter for consideration in order to allow appropriate access & egress for passengers.

6. SEAT BELTS

All vehicles must be fitted with fully operational seat belts, one for each passenger to be carried, fully compliant with the relevant British Standard, except where legislation specifically provides an exemption.

In relation to the carriage of all passengers, including children, the requirements of all relevant legislation must be complied with.

7. TYRES

All tyres, including the spare wheel, must be suitable for use on the vehicle and conform to the requirements of the Original Manufacturers' Specification.

Run-flat tyres are acceptable on licensed vehicles.

'Space-saver' spare tyres are acceptable on licensed vehicles if they conform to the Original Manufacturers' Specification.

If a 'space-saver' spare tyre is used on a licensed vehicle it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable

replacement. No further fares may be taken whilst the 'space-saver' spare tyre is being used on the vehicle.

Original Manufacturers' Specification 'tyre repair kits/compressor' are permitted within licensed vehicles provided they comply with the relevant British Standards.

If a 'tyre repair kit / compressor' is used on a licensed vehicle in lieu of a spare tyre it must only be for the duration of completing the current fare and returning to a garage to obtain a suitable replacement. No further fares may be taken whilst the tyre repaired with the 'tyre repair kit / compressor' is being used on the vehicle.

8. LUGGAGE

- 8.1** Adequate storage for passenger luggage must be available. Luggage carried must be suitably secured in place without obstructing any emergency exits.
- 8.2** If the licensed vehicle is an estate, hatchback, or multi-passenger type vehicle, it must be fitted with a guard-rail or manufacturer's specification compartment cover, approved by the Council, to prevent luggage from entering the rear passenger compartments. Exemption from this requirement will only be given where the construction of the vehicle, in the Council's opinion, does not require such a rail or cover.

9. VEHICLES POWERED BY LIQUID PETROLEUM GAS (LPG)

- 9.1** An applicant for a licence involving a vehicle that has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming satisfactory installation, examination and testing of the vehicle in accordance with LPG Association Code of Practice. This certification is required to ensure that the vehicle is considered safe by an approved inspector.
- 9.2** If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Alternatively, if the vehicle is fitted with 'run-flat' tyres, exemption from carrying a spare wheel will be granted.

10. VENTILATION

- 10.1** Windows must be provided to all passenger compartments along with adequate means of opening and closing not less than one window on either side of the vehicle, in both the front and rear passenger compartments.
- 10.2** Rear passenger windows must be capable of being opened by passengers when seated unless air conditioning is available, in which case the air conditioning must be operated by the driver upon request.

11. WHEELCHAIR ACCESSIBLE VEHICLES

- 11.1 In the case of all hackney carriages/private hire vehicles, which are built or adapted for disabled passengers, the preferred design of the vehicle is that any wheelchair is loaded from the side rather than the rear of the vehicle. Whilst the Council prefer vehicles to be loaded from the side, each vehicle will be assessed on its own merits.

The following conditions are supplementary to the vehicle standard specification applicable to all licensed vehicles (Hackney Carriage & Private Hire) with facilities to convey passengers whilst seated in Wheelchairs.

Additional Conditions for Wheelchair Accessible Vehicles

- 11.2 For every designated space for a wheelchair user, suitable independent restraint systems, incorporating webbing, must be fitted for both wheelchair and occupant, adjustable to suit a range of wheelchairs and occupant sizes. The restraint systems must be installed and operated in accordance with the manufacturer's instructions. The wheelchair restraint system must incorporate four-point webbing or be of a kind that is integral with a seat or backrest -clamps alone will not be accepted.
- 11.3 The wheelchair occupant restraint system shall comprise a minimum of a three-point anchorage system (lap and diagonal). This can either be integral with the wheelchair tie down equipment or provided separately.
- 11.4 Vehicles may be fitted with either ramps or power operated lifts to facilitate entry and exit by passengers in wheelchairs, unless the vehicle has a floor height measured from the road of more than 610mm, in which case it must be fitted with a power operated lift and the use of ramps will not be permitted.
- 11.5 All ramps must comply with 886109 (pt2) Category A or Category 8, including the requirement to cater for wheelchair tracks from 450mm to 735mm and to deliver a gradient no steeper than 1 in 12 (8.3%).
- 11.6 Ancillary equipment must be installed, operated and maintained in accordance with the manufacturer's instructions, and any lifts must be tested according to LOLER (Lifting Operations and Lifting Equipment Regulations 1998/2307).
- a. A copy of the six-monthly LOLER certificate of inspection for passenger lifts must be supplied to RCTCBC on request. All power-operated lifts must comply with BS6109 (pt2) Category A.
 - b. A copy of the LOLER certificate must be produced as part of the annual licensing application and during the inspection regime, applicable to the age of the vehicle.
 - c. In addition a copy of the LOLER certificate must be kept on the vehicle at all times and produced for inspection when requested by an authorized officer of the council or a Police Officer.
- 11.7 Stowed ramps or lifts must not prevent service and emergency doors from being operated from inside and outside the vehicle. Internally stored lifts must fold down as designed to allow access to the emergency exit when the door is open.

12. MODIFICATIONS

No material alteration or change in the specification, design, condition or appearance of any licensed vehicle may be made without:

- a) compliance with road traffic legislation,
- b) compliance with insurance requirements, and
- c) obtaining approval for the change(s) from the Council

13. INSPECTION AND FITNESS OF VEHICLES

In addition to statutory MOT requirements, vehicles are required to be mechanically tested and inspected at the Council's approved testing centre. A PASS certificate from the approved Testing Centre must be produced to support vehicle licence applications and satisfy interim fitness tests.

The vehicle inspection facility available is located at **Ty Glantaff, Treforest Trading Estate, CF37 STF**. (Any amendment to the Council's inspection facility will be notified in writing to licensees.)

13.1 Frequency of Vehicle Testing

Age of Vehicle	Test Frequency
Less than 3 years (from date of first registration)	Annually
Over 3 years, but less than 7 Years (from date of first registration)	6 Monthly
Over 7 years (from date of first registration)	4 Monthly

13.2 Test Fees

The appropriate test fee will be charged for this inspection and is payable to the Council **prior to the test taking place**. The vehicle licence shall automatically be suspended should the vehicle fail to be submitted for a vehicle inspection on or before the inspection date specified in the licence.

The suspension shall remain in force until such time as the vehicle has undertaken a satisfactory inspection or until the vehicle licence is automatically revoked.

A vehicle may not be submitted for such an inspection earlier than 28 days prior to the scheduled date of the test, which will be required:

- six months from the date of the annual inspection for vehicles up to seven years old; and
- four months for vehicles in excess of seven years old.

13.3 Standard of Testing

- a. The standard of additional testing relevant to licensed vehicles is based on the '**FTA Best Practice Guide to Inspection Of Hackney Carriage & Private Hire Vehicles 2012**'.

The guide is provided to set a minimum national standard for inspection of licensed vehicles and can be used as a reference for Licensing Authority Authorised Officers, Vehicle Inspectors and Vehicle Proprietors.

- b. The Best Practice Guide will be complimentary to the Council's policy on the suitability of vehicles and relevant conditions of licence and will **REPLACE** the '**Supplementary Testing Manual**' previously used.
- c. All vehicles must be submitted **fully prepared for test and it is expected that vehicles will pass the Council's test on first presentation**. It is not intended that the test be used in lieu of a regular preventative maintenance programme, or to identify faults that need to be rectified. Vehicles are required to be maintained in a condition 'fit for purpose' at all times. Procedures outlined in this policy are intended to provide incentive for compliance, reward for responsible vehicle owners where costs of non-compliance are borne by operators who fail to meet standards required.

d.

13.4 Test Failures/Retests

Where a vehicle is subject to a test failure, the defect will be graded as follows:

- a) **Category 'A'** - serious defect which presents imminent risk to public safety and renders vehicle unfit for continued trading with immediate suspension of vehicle licence;

Guidance on defects likely to incur Category 'A' Failures is available from Licensing Officers on request. This list is not exhaustive as it is not possible to forecast all eventualities but will give Operators a guide to expectations. The guidance must be read in conjunction with the **FTA Best Practice Guide to Inspection Of Hackney Carriage & Private Hire Vehicles 2012**

In the event of a vehicle being subject to an 'A' Grade failure, the vehicle licence will immediately be suspended and the Licence Plate will be removed from the vehicle until such time as the vehicle successfully completes a further inspection. **A further satisfactory inspection must be completed within two months of the failure otherwise the licence will be deemed to have been revoked.**

- b) **Category 'B'** - a defect where the vehicle is considered suitable to continue trading, subject to defect being remedied within 14 days of test.

A vehicle, which has failed the vehicle inspection test, must be submitted for a re-test to the vehicle examiner approved and appointed by the Council on the defects found within 14 days from the date of the test.

A failure to make the vehicle fit within the 14 day period permitted will result in the suspension of the vehicle licence until the vehicle is subject to a satisfactory vehicle test. Should the period of suspension be in excess of 2 months, the licence will be deemed to be revoked.

13.5 Re Test Fees

- a) Any vehicle subject to a test failure will be subject to a RETEST FEE to be determined by the Director of Public Health & Protection in accordance with procedures for setting/reviewing fees. The fee will be linked to the level of failure where there will be a higher fee for 'A' category defects, which will reflect the need to suspend the vehicle licence in the interest of protecting public safety.
- b) Licensees / Vehicle Proprietors are strongly advised to review the requirements of the Best Practice Standards/Conditions of Licence and policy when considering their maintenance regime and preparation of vehicles for test. Where vehicles are subject to multiple test failures, the Licensing Authority may conduct a review of trading activity to consider whether the 'fit & proper person' criteria required by the licensee/operator continues to be met. A poor test record could result in a review of licence(s) held by the Licensing Committee and an adverse impact on the business.
- c) *Exception - Accident **Damage***
Where a vehicle has been subject to accident damage and must be presented for inspection to assess the fitness of the vehicle, there will be an alternative inspection and retest fee, set by the Director of Public Health & Protection, in accordance with procedures for setting/reviewing of fees.

13.6 Vehicle Test Dispute & Challenge

Any vehicle licensee/proprietor who disputes the result of a vehicle test must make their concerns known to the Testing Station Supervisor **BEFORE LEAVING THE TESTING STATION.**

- a) A failure to do so will make any challenge **INVALID.**
- b) Where the licensee/proprietor wishes to challenge the result of a test, he/she will be required to complete a form detailing the reason(s) for such challenge. A copy of the challenge procedure will be provided on completion of a test, on request.

A fee may be payable to register such challenge, which will be set by the Director of Public Health & Protection, in accordance with procedures for setting/reviewing of fees.

Should the challenge be UPHELD, the fee charged will be REFUNDED to the licensee.

- c) The Testing Station Supervisor will arrange for the test to be reviewed by a Supervisor, having regard to the details contained in the record of challenge form.
- d) Where the outcome of the vehicle test is MAINTAINED, no further review of the test will be undertaken. A statutory right of appeal exists for a refusal to accept/renew a vehicle licence and such appeal must be made to a Magistrates Court within 21 days of the date of the written decision of refusal.
- e) Where the challenge is upheld, the test result will be amended accordingly and details will be forwarded to Licensing Officers.

14. GENERAL FITNESS OF THE VEHICLE

14.1 Maintenance and Condition of the Vehicle

- a) The exterior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the exterior of the vehicle shall:
 - i) be free of large and/or sharp-edged dents,
 - ii) be free of visible rust,
 - iii) be free of unrepaired accident damage (except where a Licensing Officer has agreed a time period for cosmetic repairs
 - iv) have uniform paintwork equivalent to that applied by the manufacturer, and
 - v) be maintained in an acceptable state of cleanliness, (discretion may be given during periods of adverse weather)

- b) The interior of all licensed vehicles shall be maintained in a clean, safe and proper manner at all times. In particular, the interior of the vehicle shall:
 - i) be free of all stains to the upholstery,
 - ii) be free of all splits and tears to the seats,
 - iii) be maintained in an acceptable state of cleanliness, and
 - iv) provide seats functioning in accordance with the Original Manufacturers' Specification.

15. VEHICLE INSURANCE

- 15.1** There shall be a policy of insurance, or such security as complies with the requirements of Part IV of the road Traffic Act 1972, during the duration of the vehicle licence. Under no circumstances will a vehicle licence be issued or renewed without proof that a valid policy of insurance is in place.

- 15.2** The registered owner/keeper of the vehicle shall ensure that it is adequately insured to the satisfaction of the Council (and meets all statutory provisions) at all times that it is available for the carrying of passengers.

- 15.3** At any time when the requirements of this section of the Policy have not been satisfied, the vehicle licence will be automatically suspended until such time as adequate insurance has been obtained.

16. ACCIDENT REPORTING

- 16.1** In accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976, any accident to a hackney carriage or private hire vehicle causing damage materially affecting:
 - a) the safety, performance or appearance of the vehicle, or
 - b) the comfort or convenience of the passengers, must be reported to the Council as soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof.

- 16.2** Where, following an accident or damage to a licensed vehicle, and it is the intention of the owner or operator to continue licensed use, the vehicle must immediately be inspected by the Council's Testing Station to determine its fitness for continued use.

If the Council's approved garage determines that the vehicle is fit for continued use, the time-scale for cosmetic repairs must be agreed with a Council Licensing Officer.

The Council may suspend the use of a licensed vehicle until it is suitably repaired and subject to a satisfactory vehicle test at the Council's Testing Station.

- 16.3** A licensed vehicle which has suffered major accident damage or requires substantial mechanical repair may be temporarily replaced by a hire vehicle, provided that it meets the vehicle specification detailed in this policy statement.

17. VEHICLE IDENTIFICATION

- 17.1** The proprietor shall cause the number of the licence to be fixed and displayed on the vehicle at all times during which the vehicle is licensed, this number to be displayed by means of a licence disc and licence plate issued by the Council to the proprietor on payment of a deposit, the amount of which to be fixed by the Council.
- 17.2** The licence disc shall be fixed and displayed inside the vehicle in such a manner and place that the particulars thereon are clear and visible to any passenger being conveyed in the vehicle.
- 17.3** The licence plate shall be fixed and displayed outside and on the rear of the vehicle as close in proximity to the rear bumper as is practicably possible in such a position as the vehicle's registration mark is not obscured, with the particulars thereon facing outwards and in such a manner and place that the licence plate is clearly visible by daylight from the road to the rear of the vehicle.
- 17.4** The licence disc and licence plate shall remain the property of the Council and shall be returned to them within seven days after service on the proprietor of an appropriate notice by an authorised officer of the Council, if the proprietor no longer holds a licence with the Council which is in force in respect of the vehicle.
- 17.5** All vehicles must have the official Council crest to be supplied only by the Council in the form of a Decal placed on the near and offside front doors, adhered directly to the paintwork where it is clearly visible. **NOTE: The use of magnetic devices is not allowed.**

Hackney Carriages Only

- 17.6** The operator must display an illuminated dome to the roof of the vehicle. The dome shall contain the word 'TAXI' or the Welsh Language version 'TACSI' displayed to both front and rear of the dome, and shall contain no other writing of any kind. (Operators may display one version to the front and the alternative version to the rear should they wish to do so)

The illuminated roof dome must be switched off when the vehicle has been hired and illuminated when the vehicle is available for hire.

Private Hire Vehicles ONLY

17.7 The operator may if they so wish, display a dome to the roof of the vehicle. If fitted the dome is for identification purposes only and should not be capable of being illuminated as this may be confused as plying for hire. The dome should only contain the name & telephone number of the operator, together with the words Private Hire Vehicle displayed to both front and rear of the dome, and shall contain no other writing of any kind.

18. LICENCE PLATES

18.1 At all times when a vehicle is licensed as a hackney carriage or private hire vehicle, unless an exemption has been granted. The vehicle must display the Licence Plate provided by the Council, securely fixed externally in a prominent position on or above the rear bumper of the vehicle

18.2 The interior licence disc shall be fixed and displayed inside the vehicle in such a manner and place that it is clearly visible to any passenger being conveyed in the vehicle

18.3 The Licence Plate/interior disc remains the property of the Council and must be returned within seven days when:

- a) the vehicle ceases to be licensed as a hackney carriage or private hire vehicle, or
- b) requested to do so by an Authorised Officer of the Council in writing when the plate is suspended, revoked, or has expired.

19. VEHICLE SIGNAGE/LICENSEE TRADING NAME

19.1 In the case of vehicles licensed to carry up to four passengers a sign/panel not more than 61 x 30.4 ems (24" x 12") in dimension may be displayed only on the rear nearside and rear offside doors.

19.2 In the case of vehicles licensed to carry between five & eight passengers a sign/panel not more than 91.4 x 70 ems (36" x 24") in dimension may be displayed only on the rear nearside and rear offside doors.

Hackney Carriage Only

19.3 This sign, (Trading Name identification) must contain only the proprietor or operator company name, telephone number, e-mail or website address.

Private Hire Only

19.4 This sign, (Trading Name identification) must contain only the proprietor or operator company name, telephone number, e-mail or website address together with the words "Advance Bookings Only". The words taxi, hire and cab must not be included). The legend "Advance Bookings Only" must be included on this display and these words must be no less prominent than the proprietor's name. The wording "24 Hour

Service Available" may also be included, if appropriate, A 7.6 ems (3") sun strip is also permitted in the front and rear windows.

- 19.5 A 7.6 ems (3") sun strip is also permitted in the front and rear windows. No other identification/advertising signs except those issued by and previously agreed by the Council shall be attached to or carried upon the inside or outside of the vehicle.

The Council has a policy in respect of commercial advertising on Hackney Carriages & Private Hire Vehicles, provisions of which are detailed below:

- 19.6 A screen displaying scrolling or moving advertisements may be securely fitted within the vehicle, provided that the screen shall not be within the vision of the driver of the vehicle, and that the Council has previously approved in writing the content of any material shown.

All advertisements must conform with the standards of the Advertising Standards Council in all matters relating to good taste, both in content and appearance and must not relate to matters concerning tobacco, alcohol or matters of a sexual nature. A notice must be fitted within view of the rear seat passengers stating that the screen will be switched off at the request of the passenger.

20. COMMERCIAL ADVERTISING

- 20.1 All applications for advertising on a Hackney Carriage or Private Hire vehicle must be made in writing to the Director of Public Health & Protection and accompanied by a sample of the advertising proposed.
- 20.2 The quality of submissions must be of an acceptable standard. No faxes will be accepted. Coloured artwork is to be provided in every case and full details of the advertising proposals must be provided. ***(NB: It is essential that all the detail of the proposed advertisement be shown in the original submission. If it is not, then the advertisement may subsequently be rejected.)***
- 20.3 The Submission, if it is considered acceptable, will be given **Provisional Approval**
- 20.4 **Final Approval** will be given once the advertisement has been placed on the vehicle. An appointment must be made with a Taxi Licensing Officer for a final inspection when the Officer will confirm that the work has been completed in accordance with the provisional approval granted.
- 20.5 The proprietor of any vehicle displaying an advertisement that has not received its final inspection will be required to remove it immediately.
- 20.6 Vehicles displaying advertising without approval of the Council will be in contravention of the conditions attached to the vehicle licence and may be liable to suspension until such time as the material has been removed from the vehicle.
- 20.7 All advertising must comply with the British Codes of Advertising and Sales Promotion and is the responsibility of the agency or individual seeking the Licensing Authority's approval to ensure that they do so.

- 20.8** Any advertisement approved shall be placed on the back passenger doors and/or rear quarter panels only, below the windows **with the exception** of the "*Trading Name identification signs*" displaying the company details (see Point 12 below), which may be displayed on the front door of the vehicle, below the window and must not obscure the sign displaying the licence number of the vehicle. (Licensees who choose NOT to have commercial advertising will continue to display Trading Name identification on rear doors.)
- 20.9** Materials used for advertisement must be of a quality not easily defaced or detached. No paper-based materials or water-soluble adhesive paste shall be used. Advertisements must be affixed directly to the exterior rear door panels of the vehicle or initially attached to an approved magnetic panel, which is then attached to the vehicle.
- 20.10** Reflective material is not to be used for advertising purposes.
- 20.11** Each proposal will be considered on its merits but the following advertisements will not be approved:
- Those with political, racial, religious, sexual or controversial texts;
 - Those for escort agencies, gaming establishments or massage parlours;
 - Those displaying nude or semi-nude figures;
 - Those likely to offend public taste (depicting violence, obscene or distasteful language);
 - Those which have any reference to alcohol, tobacco/cigarettes and drugs;
 - Those promoting discounted fares;
 - Those advertising jobs;
 - Those which detract from the integrity and/or identity of the vehicle;
 - Those which seek to advertise more than one company/service or product.

21. METERS/TARIFF

Hackney carriages

- 21.1** An approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure.
- 21.2** All taximeters must be appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.
- 21.3** The taximeter shall be positioned so that the display on the face of the meter may clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring including during the hours of darkness and also at any time at the request of the hirer.
- 21.4** When the meter is operating there shall be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that may be charged for a journey.

- 21.5** An official copy of the Council's fare tariff shall be clearly displayed and legible in the vehicle so as to be plainly visible to passengers carried therein.
- 21.6** The vehicle taximeter shall be brought into operation at the commencement of the journey and the fare demanded by the driver shall not be greater than that fixed by this Council in connection with the fare tariff for the hire of hackney carriages.
- 21.7** In the event of such a journey commencing in but ending outside the District, there may be charged for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.
- 21.8** 'Calendar' meters are permitted in hackney carriages providing that they operate in accordance with the Council's agreed fare tariff. For the avoidance of doubt, the tariff that is in operation at the time of the commencement of a journey must remain throughout that journey.

Private Hire Vehicle Only

- 21.9** Private hire vehicles are not required to be fitted with a taximeter. Where a taximeter or other device for recording fares is fitted, however, it must be of a type approved by the Council.
- 21.10** Private hire vehicle driver's must agree the cost of the journey with the passenger(s) prior to undertaking the journey. At the conclusion of the journey, the fare charged should not exceed the amount previously agreed.

22. HEALTH ACT 2006

It is the responsibility of both the driver and the proprietor to ensure no smoking signage, as prescribed by the Health Act 2006, is displayed in all licensed hackney carriages or private hire vehicles at all times.

23. CHANGES AND TRANSFERS OF LICENCE

Changes

- 23.1** The proprietor of the Hackney Carriage/ Private Hire Vehicle in respect of which a vehicle licence has been granted by the Council shall inform the Council of any change of address as soon as is practicable and in any event within seven days.

Licence Transfers (Person to Person)

- 23.2** When the holder of a vehicle licence wishes to transfer the licence to another person he must notify the Council, in writing, using the prescribed application form and pay the appropriate fee before such change takes place.

Transfer of the licence will not be deemed effective until such time as the prescribed procedure has been completed and a new vehicle licence has been issued.

24. 'Intended Use' /Remote Trading of Hackney Carriages

Introduction

24.1 The purpose of this policy is to set out how the Licensing Authority will deal with applications for grant, renewal and transfer of Hackney Carriages following the High Court Judgement – Newcastle City Council v Berwick upon Tweed [2008] EWHC 2369 (Admin) and its impact on remote trading of Hackney Carriages.

24.2 The Council will determine each application on its merits, but will place public safety above all other considerations, seeking to maintain local control in respect of its licensed fleet.

25. Applications for the GRANT/RENEWAL of a Hackney Carriage Licence

25.1 Applicants for licence will be expected to demonstrate a bona fide intention to trade primarily within the administrative area of Rhondda Cynon Taf County Borough Council under the terms and conditions of the licence for which application is being made. There will be a presumption to **REFUSE** an application for a Hackney Carriage Licence for persons who **DO NOT** intend to trade to a material extent within the administrative area of Rhondda Cynon Taf County Borough Council.

25.2 Where the applicant intends to operate to a material extent in Rhondda Cynon Taf and the intention is to trade in another Authority area also for a substantial amount of time, (and it appears that the purpose of the legislation and public safety will be frustrated), **there will be a presumption REFUSE the application.**

26. TRANSFER of Interest in licensed Hackney Carriage (*where an existing licensed vehicle is transferred from one person to another*)

26.1 Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 requires that the proprietor of the licensed vehicle who transfers his interest to another **MUST**, within 14 days of the transfer, give written notice to the Council of the name and address of the Transferee of the Hackney Carriage, (i.e. the person receiving the licence). The Council has no power to refuse to register the new proprietor and provided that the requisite Notice of Transfer has been given in accordance with section 49 of the Local Government (Miscellaneous Provisions) Act 1976, **in the format required by the Authority**, the Transferee of a licensed Hackney Carriage will be registered as the current licensee.

26.2 Transferees of licences will be expected to have a bona fide intention to operate within the administrative area of Rhondda Cynon Taf County Borough Council under the terms and conditions of the licence in respect of the vehicle being transferred. Transferees should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give to an authorised officer information which may reasonably be required for the purpose of carrying out their functions under the legislation. Where there is a failure to provide the requested information; the Council will consider exercising its powers of suspension of the licence under section 60 of the 1976 Act until such information is forthcoming.

26.3 Where the Transferee of a licensed Hackney Carriage:

- Proposes to operate remotely from the administrative area of Rhondda Cynon Taf County Borough Council;
- has no intention to trade to a material extent within the administrative area of Rhondda Cynon Taf County Borough Council;
 - and/or intends to trade in another Authority area also for a substantial amount of time;
 - and it appears that the purpose of the legislation and public safety will be frustrated,

there will be a presumption that the licence will be revoked.

27. Revocation of licence

Where a licence has been granted under the terms that the applicant intends to operate to a material extent within the administrative area of Rhondda Cynon Taf County Borough Council but is subsequently found to be trading remotely, in another Authority area for a substantial amount of time, (and it appears that the purpose of the legislation and public safety will be frustrated), **there will be a presumption that the licence will be revoked.**

28. Exceptional circumstances

Each application will be decided on its merits. However the presumptions for refusal or revocation of licence for remote trading in an Authority other than Rhondda Cynon Taf will be rebuttable in exceptional circumstances. It will be a matter for the applicant/licensee to demonstrate exceptional circumstances and to satisfy the Licensing Committee that it would not frustrate the purposes of the legislation or compromise public safety if the licence were granted, renewed, not suspended or revoked (as the case may be).