

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 21st November 2013
Report for: Decision
Report of: Head of Public Protection

Report Title

REVIEW OF HACKNEY CARRIAGE VEHICLE POLICY – INTERIM MEASURES

Summary

The Sub-Committee has been asked to consider a request from Allied Vehicles Limited to agree interim arrangements which would allow the Council to consider individual applications to license the Peugeot E7 Taxi, pending a full review of the Council's Hackney Carriage Vehicle Policy.

Recommendation(s)

That the Sub-Committee consider the report and any written and verbal submissions made to it and agree the following interim arrangements:

Pending a full review of the Council's current Hackney Carriage Vehicle Policy, in addition to the vehicles currently authorised, the Licensing Team Leader be authorised to consider licensing as a hackney carriage any vehicle which meets all of the following criteria:

- Any vehicle which has European Community Whole Vehicle Type Approval; and has a Certificate of Conformity specific to that vehicle; and
- is black in colour and displays the word 'Taxi' on an illuminated roof sign and on either side of the vehicle; and
- has been constructed to facilitate the carriage of disabled persons comfortably and securely and is capable of accommodating a disabled person in a wheelchair in the passenger compartment (acknowledging that not all wheelchairs may be accommodated); and
- has suitable ramps for a wheelchair user; and
- is less than four years old or in exceptional condition.

Pending a full review of the Council's current Hackney Carriage Vehicle

Policy, the Licensing Team Leader also be authorised to consider licensing as a hackney carriage any vehicle even though it does not meet the Condition of Fitness turning circle requirement, provided it meets all the above criteria.

The Sub-Committee consider and agree the scope of the full review of the Council's current Hackney Carriage Vehicle Policy as detailed at paragraph 3 of this report and agree the timescale for the review.

Contact person for access to background papers and further information:

Name: Joanne Boyle
 Extension: 4129

Relationship to Policy Framework/Corporate Priorities	None
Financial	None
Legal Implications:	The Council's current policy effectively restricts those vehicles which may be licensed in Trafford as a hackney carriage to two types – the LTI vehicle and the Mercedes Vito Taxi. There is a concern that the current policy is open to legal challenge under the Equality Act 2010 and EU law.
Equality/Diversity Implications	See 'Legal Implications'
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	None
Risk Management Implications	None. See "Legal Implications" above. Adoption of interim measures as proposed will reduce the risk of legal challenge.
Public Health Implications	None
Health and Safety Implications	None

1. BACKGROUND

1.1 In May 1977 the Council adopted a policy, re-affirmed in June 1979, which specified the type of vehicle it would license for use as a hackney carriage in Trafford. The policy states:

‘that a hackney carriage shall only be a type approved for public hire use by the Commissioner of Police for the London Metropolitan area, and/or the Greater London Council’ (known as the Public Carriage Office).

1.2 In March 2006 the Council undertook a further review of the policy following an approach from Allied Vehicles which requested that the Sub-Committee consider licensing the Peugeot E7 as a hackney carriage. The Sub-Committee considered the matter in public and resolved –

‘that the existing policy of permitting only London Style Hackney Carriages, in accordance with the Public Carriage Office “Conditions of Fitness” to be licensed as Hackney Carriages within the borough of Trafford be confirmed for the following reasons:

- That the London Style Hackney Carriage is distinctive and recognised locally, nationally and internationally as a Hackney Carriage. Any vehicle that meets operational criteria can be licensed as a Private Hire Vehicle. Therefore, to allow other vehicles to be licensed as a Hackney Carriage could cause confusion to the public.
- The public recognition of the London Style Hackney Carriage is an important factor in ensuring public confidence and thereby public safety.
- The Borough has a number of national and international venues and is geographically closely linked with Manchester City Centre. Given the public recognition of the London Style hackney Carriage this contributes to public confidence which is an important factor in terms of tourism.
- The merits of the Peugeot E7 and other Eurocab vehicles were acknowledged. However, the Sub-Committee considered that the merits of alternative vehicles were outweighed by benefits in terms of public recognition and public safety arising as a result of restricting the type of vehicles licensed to the London Style Hackney Carriage’.

1.3 In 2008 the Sub-Committee reviewed its policy and resolved to include the Mercedes One80 Vito Taxi (with turning circle modification) in the Hackney Carriage Vehicle Specification following its approval by the Public Carriage Office.

1.4 The Sub-Committee also resolved that the policy be reviewed within two years, or earlier if there was a change in the law or Government policy.

1.5 A review of the policy was not undertaken in 2010, however it is proposed to carry out a full review to include vehicle type, age and emission standards by June 2014.

1.6 On the 1st August 2013 the Licensing Section received a letter from Bindmans LLP on behalf of Allied Vehicles Limited, the producers of the Peugeot E7 taxi, on the legality of the Council's current policy.

1.7 It is Bindmans view that:

- the effect of the current Policy is to unlawfully exclude the E7 as a vehicle that can be licensed as a hackney carriage in Trafford in breach of EU law;
- the Council is currently in breach of its duties under section 20 and 149 of the Equality Act 2010; and
- pending the completion of the review, it would be unlawful for the Council to refuse to consider individual applications to license E7 taxis as hackney carriages in Trafford on their merits.

A full copy of Bindmans' letter is attached at **Appendix A**.

1.8 Bindmans, on behalf of Allied Vehicles Limited, has requested that this matter be brought to the attention of the Sub-Committee; with a recommendation that interim arrangements be agreed and implemented which would allow consideration of individual applications to license the Peugeot E7.

1.9 Following discussions with the Council's Legal Services, officers would recommend that an interim position is agreed pending a full review of the Council's Hackney Carriage Vehicle Specification policy.

2. INTERIM RECOMMENDATIONS

2.1 As referenced in the letter from Bindmans, the Department of Transport's Best Practice Guidance on Taxis and Private Hire Vehicle Licensing 2010 states:

"27. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.

28. It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle."

2.2 It is recommended that pending a full review of the Councils current policy, officers should be authorised to consider hackney carriage vehicle applications for any vehicle which meets the following criteria:

European Whole Vehicle Type Approval

- 2.3 In October 2007, the European type approval scheme for cars known as European Community Whole Vehicle Type Approval was amended by the implementation of Directive 2007/46/EC. The Directive provides the base European legislation for the approval of vehicles that are mass produced, built in small numbers or as individual vehicles. It requires them to meet specified safety, security and environmental standards before they can be used on the road.
- 2.4 Vehicles built, for example, as a chassis and fitted with a body by a different company are considered to be 'multi-stage' vehicles.
- 2.5 Other than passenger cars and light goods vehicles (M1 & N1) all other vehicles are sub-divided into three categories of completeness: Complete, Incomplete, or Completed.
- 2.6 A 'complete' vehicle is one which does not require any multi-stage approval that can be registered and used on the road. It is likely to be a vehicle built completely by an individual manufacturer. An 'incomplete' vehicle is a multi-stage vehicle that may involve more than one manufacturer e.g. the chassis/cab manufacturer and the body manufacturer. A chassis/cab may or may not be type approved but will require full approval as a completed vehicle before it can be used on the road. A 'completed' vehicle is one which has received multi-stage approval, meeting the requirements of the directive and can be registered and used on the road.
- 2.7 It is recommended that, pending a full review of its policy, the Council consider licensing as a hackney carriage, in addition to the vehicles currently authorised, any vehicle presented to it which has European Community Whole Vehicle Type Approval; and has a Certificate of Conformity specific to that vehicle. This is to ensure that the vehicle meets European safety, security and environmental standards before it is used on the road.

Appearance/Recognition/Identification of vehicles

- 2.8 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 states the following:
- 'A district council may attach to the grant of a licence of a hackney carriage under the Town Police Clauses Act 1847 such conditions as the district council may consider reasonably necessary.
- Without prejudice to the generality of the foregoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such a design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.'
- 2.9 The above section is modified by section 48 of the Act which provides that where a Council grants a licence for a private hire vehicle it must be satisfied

that the vehicle is not of a design and appearance as to lead any person to believe that the vehicle is a hackney carriage.

- 2.10 Therefore, the Council has the power to stipulate the appearance of a hackney carriage so as to distinguish it from a private hire vehicle.
- 2.11 It is recommended that, pending a full review of its policy, the Council consider licensing as a hackney carriage any vehicle presented to it which is black in colour and displays the word 'Taxi' on an illuminated roof sign and on either side of the vehicle. Additional signage on the side of the vehicle is recommended for such vehicles (excluding LTI vehicles) to distinguish them from Trafford Private Hire Vehicles which also carry roof signs.

Disabled Access

- 2.12 It is recommended that, pending a full review of its policy, the Council consider licensing as a hackney carriage any vehicle presented to it which has been constructed to facilitate the carriage of disabled persons comfortably and securely and be capable of accommodating a disabled person in a wheelchair in the passenger compartment (acknowledging that not all wheelchairs may be accommodated). The vehicle must also have suitable ramps for a wheelchair user.
- 2.13 The vehicle must be designed and constructed to help elderly and ambulant disabled in and out of the vehicle.

Turning Circle

- 2.14 Pending a full review of the Council's current Hackney Carriage Vehicle Policy, the Council consider licensing as a hackney carriage any vehicle even though it does not meet the Condition of Fitness turning circle requirement, provided it meets all the other recommended criteria. This is because (1) the turning circle requirement is extremely restrictive as only 2 types of vehicle can currently comply with it, and (2) the justification for the requirement needs to be rigorously examined in the forthcoming review in the context of the situation in Trafford.

Age Limits

- 2.15 In 2008 the Council approved the Mercedes Vito Taxi to be licensed as a hackney carriage in Trafford subject to the age policy for non-purpose built vehicles i.e a licence would not be issued unless the vehicle was less than four years old on first grant. The age policy for purpose built vehicles is less than 10 years old. All maximum age limits are subject to the proviso that if an older vehicle is deemed by the Council's Transport Depot to be in exceptional condition it can be eligible to be licensed.
- 2.16 It is recommended that pending the review of its policy, the Council retain its current approach to the age limit for non-purpose built hackney carriage vehicles.

3. SCOPE OF THE REVIEW

3.1 The following is a list of factors which it is proposed are taken into consideration when reviewing the Council's Hackney Carriage Vehicle Policy; the list is not exhaustive and the Sub-Committee may wish to consider other issues:

- General vehicle specification
- Disabled access
- Turning circle requirement
- Vehicle age restrictions
- Emission standards

3.2 It is proposed that a report be presented to the Sub-Committee in June 2014, following a 12 week consultation with relevant stakeholders, recommending appropriate amendments to the policy.

4. KEY ISSUES

4.1 The Council's current policy effectively restricts those vehicles which may be licensed in Trafford as a hackney carriage to two types – the LTI vehicle and the Mercedes Vito Taxi. In the Liverpool City Council case referred to in Bindmans' Letter, a similar policy was found to be unlawful for a number of reasons, including non-compliance with parts of the Disability Discrimination Act 1995 (now the Equality Act 2010); and incompatibility with EU law.

4.2 Bindmans, on behalf of Allied Vehicles Limited, has requested that this matter be brought to the attention of the Sub-Committee; with a recommendation that interim arrangements be agreed and implemented which would allow consideration of individual applications to license alternative vehicles.

4.3 Pending a thorough review process it is important that any change to the council's current policy does not prejudice its position going forward. Therefore the proposals being made now are considered to be the minimum requirements necessary to meet the concerns about the legality of the existing policy.

5. RECOMMENDATIONS

5.1 The Sub-Committee is asked to consider the report and any written and verbal submissions made to it and agree the following interim arrangements:

5.1.1 Pending a full review of the Council's current Hackney Carriage Vehicle Policy in addition to the vehicles currently authorised, the Licensing Team Leader be authorised to consider licensing as a hackney carriage any vehicle which meets all of the following criteria:

- Any vehicle which has European Community Whole Vehicle Type Approval; and has a Certificate of Conformity specific to that vehicle; and
- is black in colour and displays the word 'Taxi' on an illuminated roof sign and on either side of the vehicle; and
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- has suitable ramps for a wheelchair user; and
- is less than four years old or in exceptional condition.

5.1.2 Pending a full review of the Council's current Hackney Carriage Vehicle Policy, the Licensing Team Leader also be authorised to consider licensing as a hackney carriage any vehicle even though it does not meet the Condition of Fitness turning circle requirement, provided it meets all the above criteria.

5.2 The Sub-Committee is asked to consider and agree the scope of the full review of the Council's current Hackney Carriage Vehicle Policy as detailed at paragraph 3 above and agree the timescale for the review.