

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 16th April 2015
Report for: Decision
Report of: Head of Regulatory Services

Report Title

REVIEW OF PRIVATE HIRE OPERATOR CONDITIONS

Summary

It has been established that once a vehicle has been licensed as a hackney carriage, it is a hackney carriage for the duration of that licence, wherever it is located and can, therefore, be used for pre-booked work in any district in England and Wales.

This has become a significant issue in Trafford because of an influx of hackney carriages licensed by other local authorities working through Trafford private hire operators.

Officers are proposing additional conditions be introduced to the private hire operator conditions to require operators to take more responsibility for the control of 'out of area' taxis.

Recommendation(s)

That the Sub-Committee authorises the Head of Regulatory Services to consult with private hire operators on the proposed new private hire operator conditions set out in Appendix A and the revised penalty point list set out in Appendix B.

That the Head of Regulatory Services report back to the Sub-Committee on the outcome of that consultation together with final recommendations for the Sub-Committee to consider.

Contact person for access to background papers and further information:

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Background Papers: None

1. Background

- 1.1 In 2010 the High Court handed down a judgement in the case of Stockton-on-Tees Borough Council v Fidler, Hussain & Zamanian. The judgement was that once a vehicle is licensed as a hackney carriage, it is a hackney carriage for the duration of that licence, wherever it is located, and can be used for pre-booked work in any district in England and Wales.
- 1.2 The judgement made it clear that it is not an offence for a licensed private hire operator to take bookings, and then dispatch a hackney carriage licensed by another district to undertake pre-booked work.
- 1.3 The situation has created a number of issues in Trafford, these include:
 - possible prejudice to public safety
 - inconsistent standards
 - increase in illegal plying for hire
 - the inability to enforce or undertake spot checks on these vehicles
 - confusion for the customer and possible reduced DDA compliance
 - conflict between the local trade and out of area trade
 - loss of income to the local authority
- 1.4 In order to address some of these issues it is proposed that additional conditions be inserted into the existing private hire operator conditions (see Appendix A) and a revised list of penalty points be introduced for non-compliance (see Appendix B).

2. Recommendations

- 2.1 That the Sub-Committee authorises the Head of Regulatory Services to consult with private hire operators on the proposed new private hire operator conditions set out in Appendix A and the revised penalty point list set out in Appendix B.
- 2.2 That the Head of Regulatory Services report back to the Sub-Committee on the outcome of that consultation together with final recommendations for the Sub-Committee to consider.

APPENDIX A



TRAFFORD COUNCIL

PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS

REVISED:

Private hire operators' licences are issued subject to the following conditions. You are advised to study these carefully, as you are warned that for non-compliance with any one condition, the licence may be suspended or revoked.

1.	Definitions	
	"The Council"	means the TRAFFORD ;
	"The District"	means the area of the Council;
	"The Act"	means the Local Government (Miscellaneous Provision) Act 1976
	"Private Hire Vehicle"	has the same meaning as in the Act
	"Vehicle"	means a private hire vehicle;
	"Operator"	means a person holding a licence to operate private hire vehicles issued by the Council under Section 55 of the Act;
	"Premises"	means the operator's place or places of business for the purpose of operating vehicles;
	"Authorised Officer"	means any officer of the Council authorised in writing by the Council for the purpose of regulating private hire vehicles;
	"Plate"	means the plate issued by the Council for the purpose of identifying the vehicle as a licensed private hire vehicle;
	"Badge"	means the badge issued by the Council for the purpose of identifying a driver as a licensed private hire driver;
	"Meter"	means any device for calculating the fare to be charged in respect of any journey in a vehicle by reference to the distance travelled or the time elapsed since the start of the journey or a combination of both.

2.	Licence	Date of Implementaion
	The licence shall remain the property of the Council at all times and shall be renewed annually.	

3.	Details of Vehicle(s)	
	The operator shall keep at their premises the following details of all vehicles that they operate:	AMENDED
(a)	the name and address of the proprietor;	
(b)	the vehicle licence holder;	
(c)	the vehicle licence expiry date;	
(d)	the registration number	
(e)	make, type and colour	
(f)	plate number;	
(g)	copy of the current Insurance Certificate;	
	and these details shall be produced on request to an authorised officer or police constable at any time.	

4.	Details of Vehicle(s)not licensed by the Council	
	The operator shall keep at the premises the details identified in Condition 3 above for all other vehicles used by him for hire, but which are not private hire vehicles licensed by the Council. Such records must be individually and separately identifiable. These details shall be produced on request to an authorised officer or police constable, provided such request is made for proper purposes including the investigation of any complaint, the detection and prosecution of crime and the efficient operation of the Council's scheme of licensing.	NEW

5.	Details of Driver(s)	
	The operator shall keep at their premises the following details of all drivers employed or used by them:-	AMENDED
(a)	name and address;	
(b)	badge number;	
(c)	expiry date of the private hire vehicle driver's licence;	
	and these details shall be produced on request to an authorised officer or police constable at any time.	

6.	Details of Driver(s) not licensed by the Council	
	For the avoidance of doubt, Condition 5 of these conditions also applies	NEW

	where the operator allocates pre-booked work to a vehicle that is not a private hire vehicle licensed by the Council. Where such vehicle is a hackney carriage, condition 5(c) shall be construed accordingly. Such records must be individually and separately identifiable. These details shall be produced on request to an authorised officer or police constable, provided such request is made for proper purposes including the investigation of any complaint, the detection and prosecution of crime and the efficient operation of the Council's scheme of licensing.	
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7.	Control of Drivers	
	The operator shall take all reasonable steps to ensure that drivers of vehicles employed, used or controlled by them observe and perform the conditions attached to their private hire vehicle driver's licence and all other relevant statutory requirements, including Road Traffic Legislation.	NEW

8.	Record of Bookings	
(a)	The operator shall, before the commencement of each journey, record in a manner prescribed by the Council, the following details of each booking:-	AMENDED
	(i) the time and date of booking;	
	(ii) the method by which it was received (e.g. telephone, personal call etc);	
	(iii) by computer, or in a suitable book, with numbered pages set out:	
	(iv) the picking up and setting down points, by reference to street names;	
	(v) the date and time when the journey is to commence;	
	(vi) the name (and address) of the hirer;	
	(vii) the plate number of the vehicle allocated to the booking;	
	(viii) the name and badge number of the driver allocated to the booking;	
	(ix) the call sign of the vehicle allocated to the booking;	
	(x) the registration number of the vehicle allocated to the booking;	
(b)	These records shall be kept at the premises for at least 12 months from the date of the last entry or such longer period as may, by written notice, be required by an authorised officer.	AMENDED
(c)	These records shall be produced on request to an authorised officer or police constable at any time.	

9.	Record of bookings allocated to vehicles not licensed by the Council	
(a)	For the avoidance of doubt, Condition 8 of these conditions also applies where the operator allocates a booking to a Hackney Carriage not licensed by the Council.	NEW
(b)	The receipt of advance bookings by the operator for Hackney Carriage	NEW

	vehicles licensed by another Authority or which are subsequently allocated to a HCV licensed by another Authority must be maintained in a completely separate register of bookings and in the same format as condition 8. If a computerised booking system is in place those booking records must be kept in a completely separate and distinct area of the systems hard drive to enable easy inspection by the Council.	
10.	Notice to Customer	
	Where a Hackney Carriage licensed otherwise than by Trafford Council may be allocated by the operator, the operator shall inform the customer of that fact, whether by a pre-recorded announcement during a telephone call, by written terms visible when booking on an Internet site or signing up to an App, or by any other method likely to bring the information to the attention of the customer at the time of booking or prior to making a booking.	NEW
11.	Prompt Attendance	
	The operator shall ensure that when a vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at the appointed time and place.	
12.	Picking Up and Setting Down of Passengers	
	The operator shall, so far as is possible, ensure that drivers in their employment or control do not pick up or set down passengers:-	NEW
(a)	at a hackney carriage stand;	
(b)	at any place that may cause a risk of accident or obstruction to other road users and pedestrians.	
13.	Fares	
	Where a request for a hiring is received and the vehicle to be used for that hiring is not fitted with a meter, the operator must so inform the person making the booking and shall not accept the booking without first telling that person the basis of the hire charge (and if requested, put that information in writing).	NEW
14.	Lost Property	
(a)	The operator shall deliver any property left in the vehicle and handed to them by the driver, to the licensing office as soon as possible, and in any event within 24 hours.	NEW
(b)	the operator shall keep a record of all lost property retained by them.	NEW
15.	Premises	
	The operator's premises must be within the Council's district.	NEW

16.	Waiting and Reception Room	
	The operator shall ensure that any rooms provided on the premises for the purpose of booking or waiting shall be kept clean, adequately lit, heated and ventilated at all times and be provided with adequate seating for customers.	
17.	Drunk and Disorderly Persons	
	The operator shall not allow any person who is drunk, or is behaving in a disorderly manner, to remain on the premises.	NEW
18.	Planning Permission	
	The operator shall not commence using any premises for their business without having first obtained written permission to do so from the relevant planning authority and shall comply with any conditions attached to such permission.	
19.	Nuisance to Nearby Residents	
	The operator shall at all times carry out their business so as not to cause nuisance or annoyance to nearby residents.	NEW
20.	Change of Address	
	The operator shall notify the Council in writing within 7 days of any change in:-	
(a)	their home address;	
(b)	their premises address;	
(c)	the name of their firm;	NEW
(d)	the licensed vehicles used or controlled by them;	
(e)	the names and addresses of the drivers in their employment or under their control.	
21.	Complaints	
	The operator shall keep a record of any complaints concerning a contract for hire or purported contract for hire relating to or arising from their business and of any action, if any, which the operator has taken or proposes to take in respect of such complaint.	NEW
22.	Convictions	
	The operator shall within 14 days disclose to the Council in writing details of convictions imposed on them during the period of their licence.	AMENDED

23.	Loss of Licence	
	The operator shall report the loss of their licence to the Police as soon as the loss is known. A duplicate may be issued by the Council on payment of a fee.	NEW
24.	Return of Licence	
	The operator shall immediately return the operator's licence to the Council in the event of the surrender, suspension or revocation of the licence.	NEW
25.	Licence Renewal	
	A licence cannot be renewed if it has expired; a new application will be required.	NEW
26.	Payment by Credit/Debit Card	
	A licence in respect of which the fee has been paid either in part or in full by cheque or credit/debit card shall be of no effect in the event of that payment being subsequently dishonoured.	NEW
27.	Vehicles Kept at Domestic Premises	
	Unless in receipt of written consent from the planning authority, where an operator has their operation base located at domestic premises, they shall ensure that the number of licensed private hire vehicles parked at or kept in the vicinity of those premises (including parking on the highway) at any one time, does not exceed one vehicle in total.	NEW
28.	Satellite Offices	
(a)	The operator may only operate from those premises or such part of which have been approved as operating bases by the Council.	NEW
(b)	All premises from which the operator intends to carry out their business must be declared upon application for a licence. This includes any satellite offices situated at premises which may or may not be controlled by the applicant.	NEW
29.	Company Signs	
	The operator shall ensure that only vehicles which are currently licensed as private hire vehicles with the Council shall display signage approved by the Council as specified in the private hire vehicle licence conditions.	NEW

30.	Taxi meters in vehicles	
	Where any vehicle operated by him is fitted with an approved taximeter, the operator shall ensure that the taximeter is set and properly sealed in accordance with Council regulations.	

31.	Facilities for the disabled, deaf or hard of hearing	
	The operator shall comply with his duties under the Equality Act 2010 and shall make reasonable adjustments to allow access to its services for all disabled people, including the deaf or hard of hearing. In particular, the operator shall provide a system for deaf or hard of hearing customers to book a private hire vehicle e.g. mini-com, website bookings; bookings by text.	NEW
	The system shall be advertised widely on all published material and on the operator's website.	NEW
32.	Guide Dogs	NEW
	The operator shall ensure that guide dogs are carried within the passenger compartment of the vehicle on request.	

APPENDIX B



TRAFFORD COUNCIL

PRIVATE HIRE OPERATOR - PENALTY POINTS SYSTEM

The conditions in the table relate to the Trafford Private Hire Operator Conditions.

The Penalty Points table approved by the Council is:

		<u>Number of Points</u>
1.	Records of Vehicles	50
	Records of Drivers	50
2.	Records of Hiring	75
3.	Notice to Customers	50
4.	Records of Complaints	30
5.	Notification of Convictions	75 per conviction
6.	Change of Address	30
7.	Company Signs	30
8.	Equalities Act 2010	75

The following matters are to be considered by the Licensing Committee and are not to be delegated to Officers.

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|-----|---|----------|
| 9. | Gross discourtesy by Operators | Max. 150 |
| 10. | Any such other matters of a substantial nature that the Licensing Committee believes are detrimental to the reputation of the Trafford private hire trade which have brought or are likely to bring the service into disrepute. | Max. 150 |

All penalty points awarded by Officers are subject to a right of appeal before the Licensing Committee.

Appellants must make their written appeal within 21 days of the service of the notification of the award of the points. Appeals will then be placed on the agenda for the next available Licensing Committee.

On accumulation of 150 penalty points the Operator shall be requested to attend before the Licensing Committee for consideration. The Licensing Committee shall take such further action as they consider appropriate.