

# CHESHIRE EAST COUNCIL

## LICENSING COMMITTEE

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| Date of Meeting: | 16 January 2012   |
| Report of:       | Head of Community Services                                  |
| Subject/Title:   | Private Hire Vehicle Conditions and Vehicle Test Guidelines |

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### 1.0 Report Summary

- 1.1 The report provides background in relation to a consultation exercise on private hire vehicle conditions and vehicle test guidelines together with the consultation responses received by the Council.

### 2.0 Decision requested

- 2.1 The Licensing Committee is requested:
- 2.1.1 to consider consultation responses received in relation to the proposed amendment of condition 2.7 of the Private Hire Vehicle Conditions and the accompanying vehicle test guidelines; and
- 2.1.2 to determine whether to approve, with or without amendment:
- (a) the deletion of the existing condition 2.7 of the private hire vehicle conditions and its replacement with: "All glazing shall comply with the Road Vehicles (Construction and Use) Regulation 1986 (as amended)" and
  - (b) the Private Hire Vehicle test guidelines.

### 3.0 Reasons for Recommendations

- 3.1 At its meeting on 12<sup>th</sup> September 2011 the Licensing Committee resolved that, subject to consultation, condition 2.7 of the private hire vehicle conditions be deleted and replaced with: "All glazing shall comply with the Road Vehicles (Construction and Use) Regulation 1986 (as amended)." The Licensing Committee further resolved to consult on a set of proposed Private Hire Vehicle test guidelines.
- 3.2 The consultation period has now concluded and responses have been received in relation to these proposals. The Licensing Committee is therefore requested to consider the consultation responses before making a decision on these issues.

#### **4.0 Wards Affected**

4.1 All

#### **5.0 Local Ward Members**

5.1 All

#### **6.0 Policy Implications including – Carbon reduction; Health**

6.1 The report deals with a proposed amendment to the Private Hire Vehicle Conditions and the adoption of a set of Vehicle Test Guidelines; full details are set out within the body of the report.

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 None.

#### **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 Section 48(1) of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') provides that a local authority shall not grant a licence to a private hire vehicle unless it is satisfied that the vehicle is (i) suitable in type, size and design for use as a private hire vehicle; (ii) not of such a design and appearance as to lead any person to believe that the vehicle is a hackney carriage; (iii) in a suitable mechanical condition; (iv) safe; and (v) comfortable. Section 48(2) of the 1976 provides local authorities with the power to attach to private hire licences such conditions as they may consider 'reasonably necessary.' The imposition of conditions on a private hire vehicle licence is subject to a right of appeal to the Magistrates' Court.

8.2 Consideration has been given to the application of the 'public sector equality duty' (as per section 149 Equality Act 2010) to the decision requested within paragraph 2.0 above. It is suggested that the decision requested would have a neutral impact in terms of its impact on those individuals with 'protected characteristics.'

#### **9.0 Risk Management**

9.1 Full consideration of consultation responses is required in order to avoid the risk of challenge to any decision.

#### **10.0 Background and Options**

10.1 As Members will recall on 12<sup>th</sup> September 2011 the Committee considered a report in relation to the Council's existing private hire vehicle conditions. The Committee was requested to review specific conditions including condition 2.7, relating to tinted windows.

- 10.2 The existing condition 2.7 of the private hire vehicle conditions states: "With the exception of the rear window of a vehicle, heavily tinted glazing and tinted films applied to vehicle windows are not permitted. All glazing shall comply with the Motor Vehicles (Construction and Use) Regulations 1986 (as amended), with regard to the level of tint. A minimum light transmission value of 70% shall be maintained in all side windows; windscreens shall have a minimum light transmission value of 75%." Members were advised that the requirements of the Construction and Use Regulations (enforced by VOSA) are that the light transmitted through the windscreen must allow at least 75% whilst the side windows (to the front of the 'B' pillar) must transmit at least 70%. Members were also referred to paragraph 30 of the DfT Best Practice Guidance in relation to tinted windows which states:

*The minimum light transmission for glass in front of, and to the side of, the driver is 70%. Vehicles may be manufactured with glass that is darker than this fitted to windows rearward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations.*

- 10.3 Having considered the information within the report the Committee resolved that, subject to consultation, condition 2.7 of the private hire vehicle conditions be deleted and replaced with: "All glazing shall comply with the Road Vehicles (Construction and Use) Regulation 1986 (as amended)."
- 10.4 A consultation exercise was carried out between 12<sup>th</sup> October 2011 and 3<sup>rd</sup> January 2012. Correspondence in relation to the consultation was sent directly to private hire vehicle proprietors, private hire vehicle operators and private hire vehicle drivers, the three Chambers of Commerce & Enterprise within the Borough and to Cheshire Constabulary. In addition, consultation documentation was published on the Council's website and correspondence sent to Cheshire East Council Transport Co-ordination and the two Council appointed testing centres.
- 10.5 The Council has received seven responses to the proposal within paragraph 10.3 above; details of these consultation responses are set out in full within Appendix A to this report. As Members will note three of the consultation responses received from private hire vehicle proprietors are in support of the proposed amendment of condition 2.7. The response from Cheshire Constabulary suggests that the Police have no issues or concerns to bring to the attention of the Committee in respect of the proposals. Meanwhile the response from the South Cheshire Chamber of Commerce & Industry states: "...it is important that the quality and safety of taxis should be at the highest level possible as they are often the first point of contact for visitors and create a lasting impression. For this reason therefore we would support any proposals that improve current arrangements."

- 10.6 Members are requested to consider the consultation responses attached within Appendix A and to determine whether to approve the deletion of the existing condition 2.7 of the private hire vehicle conditions and its replacement with: "All glazing shall comply with the Road Vehicles (Construction and Use) Regulation 1986 (as amended)."
- 10.7 On 12<sup>th</sup> September 2011 Members also considered a proposed set of vehicle test guidelines which were proposed to be applicable to the testing of private hire vehicles across the Borough. It was suggested that formalising a set of vehicle test guidelines would be beneficial by ensuring transparency and consistency in the way that vehicles are tested. The draft guidelines, as sent out for consultation, are attached as Appendix B to the report.
- 10.8 The Council has received two responses in relation to the content of the vehicle test guidelines. The specific points raised and the officer recommendations in relation to each of the points are set out in the table below. Members are asked to consider the consultation responses and determine whether to make any amendments to the proposed vehicle test guidelines.

| <b>Relevant paragraph of vehicle test guidelines</b> | <b>Consultation response</b>   | <b>Officer recommendation</b>  |
|--|--|--|
| Section A - 1  | Request for clarification about the production of an official MOT record for that part of the test   | As current practice, an official MOT record is not required; the requirement is rather that vehicle is tested to the MOT standard  |
| Section A – 2  | Draws attention to the requirement that seating configuration must be approved by the Council at the time the vehicle is first licensed. Query relating to recording of seating configuration. | Officers will address this issue directly and consider the form used for recording test results.   |
| Section A – 16                                       | We assume that the absence of a spare wheel would be acceptable as per the Hackney Carriage guidelines and therefore the text from those would need copying over into this section.            | Yes – it is recommended that (subject to the point below about the level of tread) an amendment is made to bring this in line with the proposed Hackney Carriage Vehicle Test Guidelines, i.e.<br><br>16. Condition of spare tyre: Must have more than 2mm over total width of tyre;<br><br>Space saver tyres: Slim/space saver type must be to manufacturer specification;<br><br>Tyre inflation devices: Spare tyre may be replaced by an approved specified inflation system. |
| Section A – 19                                       | It may be worth further clarification that tools such as the jack and wheel brace would not be required for vehicles not fitted with a spare wheel.  | Accepted.  |

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| Section A – 25      | This may need further clarification about whether all 'welding repairs' are prohibited.(i.e. clarification to state that only 'patch' type welding repairs for example for corrosion damage would not be acceptable, as otherwise some body work repairs carried out by specialist accident repair centres which may include the welding in of complete new panels (floors, cills, quarter panels etc) to the manufacturer's specification would be prevented). | Accepted. Recommended that the test guidelines be amended to state that 'patch' repairs and unacceptable but welding repairs of whole new panels to manufacturer's specification are acceptable. |
| Section B – 2       | Submitted that would be more appropriate for the Licensing Section to check the LPG certificate when the licence application is submitted.  | Accepted. Recommended that this requirement be removed from the test guidelines and added to the application procedure.  |
| Section A – 16 & 43 | <p>Wheels and tyres<br/>UK legal requirement is 1.6 mm over 75% of the tyre breadth in a continuous band over the whole of the circumference.</p> <p>Advocating a 2 mm over the total width of the tyre on the full circumference creates ambiguity when police/insurance companies or legal advisors are dealing with accidents etc as well as increasing the costs of operating a taxi.</p>   |  |

## Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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## **APPENDIX A**

### **South Cheshire Chamber**

Thank you for your letter dated 17<sup>th</sup> October 2011 giving the Chamber the opportunity to comment on your proposals in relation to private hire vehicles and hackney carriages.

Whilst we feel unable to comment in detail on the technicalities involved, it is our view that from an image perception point of view it is important that the quality and safety of taxis should be at the highest level possible as they are often the first point of contact for visitors and create a lasting impression.

For this reason we would support any proposals that improve current arrangements.

### **Cheshire Constabulary**

Re: (i) Consultation in relation to proposed hackney carriage vehicles conditions (zones 1,2 & 3) and hackney carriage test guidelines; (ii) consultation in relation to private hire condition 2.7 and private hire guidelines.

Thank you for recent correspondence forwarded to Cheshire Constabulary Roads Policing Unit, in respect of the proposed amendments detailed above, which have been forwarded for my attention.

I have reviewed the information you have sent. The conditions imposed on Private Hire/Hackney carriages are a matter for the Licensing Committee to determine. The guidelines forwarded to me would appear to set a clear and unambiguous criteria for the standards expected of a Private Hire or Hackney Carriage Vehicle. I have no issues or concerns to bring to the attention of the Licensing Committee in respect of these proposals.

### **Private Hire Vehicle Proprietors (x 2)**

Thank you for your letter dated 12 October 2011.

I would like to express my approval to the proposed changes to the above (condition 2.7 – in relation to tinted windows).

I would agree most strongly with the new proposal regarding tinted glass in private hire vehicles as most vehicles that I would like to purchase for my business are inaccessible to me because of the current regulations regarding tinted glass. Once I have selected a new vehicle to purchase it is only after the initial MOT that I am told that I do not conform to current regulations because of the current regulations. Under the current regulations I would have to incur considerable expense to change the glass in a new vehicle (as I have previously had to do) which is totally unacceptable in the current economic climate, or alternatively the purchase of a proposed new vehicle falls through.

Please accept this written acknowledgement that both myself and my partner wholeheartedly agree with the new proposal.

Thank you for your help and assistance in this matter. I look forward to hearing from you regarding the outcome of the proposed changes.

### **Private Hire Vehicle Proprietor**

Firstly may I say how disappointed I am at the Licensing Committee for not recognizing that the meeting time is just totally inconvenient for most Business's or sole drivers, being around the school time, can this be resolved to fit more in the timetable of a working Business.

Please do not get me wrong I fully understand there have to be rules but as a Genuine Business owner I feel that the Committee have gone 1 step too far and all you are doing is hindering Businesses like ours from surviving.

#### Objection

There has been a total misunderstanding between the Committee and the Trade, this can only be resolved if both parties are willing to form a working party, this way the Committee will have a real understanding of how the Trade works in the 21st Century.

#### Tow Bars

I am speaking on behalf of myself as the Owner of a business which has a small fleet of 10 cars, these cars are owned by myself for the purpose of running a business, but are also insured for myself to use as a personal vehicle, therefore if I wish to tow my own trailer/caravan then that is my business and nothing to do with the PH rules, I have never asked nor will I do for the Committee to consider allowing a trailer to be passed to use for Business/Trade, therefore can we please clarify the use of tow bars on vehicles, as it has not yet been passed by law that we can not fit such extra's, you the Committee have no power to stop the use of tow bars on personal vehicles.

#### 6 Month Inspection

Again a total misunderstanding, I personally drive a vehicle which is over 7 years old, but I challenge you to tell me how old the car is in fact, because as a Business owner I look after my cars and maintain them to a very high standard, by employing a full time mechanic (ex Ford - time served). As far as I am aware, please correct me if I am wrong, the DoT set rules for vehicle over 3 years old to have a Vehicle test once a year, therefore how can you pass a rule to make 7 year olds have a vehicle test twice a year, if what you have done is passed as law then I apologize, but if not please accept this as I will challenge you through Court if necessary to correct the issue.

#### Glazing

Can I please ask have any of the Committee actually read the Road Vehicles (Construction and Use) Regulations 1986?

Finally please do not misunderstand me, I am all for following the law when it comes to running a Business, but please leave it to the responsible people to run their Business in the interest of their customers, I feel very strongly that this is not the case with the Committee, but by working together I am sure we can harmonize the Trade.

#### **Private Hire Vehicle Proprietor**

I am writing to express my views on the proposed consultation in relation to Private Hire Vehicles.

I am happy about the change to the vehicle window spec, as I didn't see any benefit to anyone for this new rule and after recently purchasing a new vehicle the options were limited, also I would like to express my view on the tow bar issue.

While I understand your reasoning for the abolition of tow bars on private hire vehicles, it is my concern that like me my vehicle is also my private car and because I own a caravan this rule seems to discriminate me. If I could make a suggestion that maybe the rule may be changed from not allowing trailers to be used for the purpose of hire or reward, I then think this would meet everyone's criteria, please let me know what you think about this proposal.

#### **Approved Testing Centre**

We don't see any problem with the deletion of condition 2.7 and replacing it with the new text.

#### **Taxi proprietor**

Condition 2.7 – no objection, new proposed condition welcomed.