

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of Meeting:	16 January 2012
Report of:	Head of Community Services
Subject/Title :	Hackney Carriage Vehicle Conditions

1.0 Report Summary

- 1.1 The report provides background to a consultation exercise in relation to a proposed set of hackney carriage vehicle conditions and vehicle test guidelines to apply in each of the three hackney carriage zones 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 hackney carriage vehicle conditions and the accompanying vehicle test guidelines; and
- 2.1.2 to determine whether to approve, with or without amendment, the hackney carriage vehicle conditions and the vehicle test guidelines.

3.0 Reasons for Recommendations

- 3.1 At its meeting on 12th September 2011 the Licensing Committee resolved that, subject to consultation, to approve a set of hackney carriage vehicle conditions and vehicle test guidelines to apply in each of the three hackney carriage zones.
- 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 set of hackney carriage vehicle conditions and vehicle test guidelines to apply in each of the three hackney carriage zones; 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 If Members determined that further consultation is required (see paragraph 10.7 below) there would be further costs (of approximately £1,000) associated with printing and postage. It is suggested that any such costs would have to be met from existing budget provision within the Licensing Service's budget.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 47(1) of the 1976 Act provides local authorities with the power to attach to hackney carriage licences such conditions as they may consider 'reasonably necessary.' Section 47(2) states that without prejudice to the generality of section 47(1), a council may require vehicles to be "of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage." The imposition of conditions on a hackney carriage vehicle licence is subject to a right of appeal to the Magistrates' Court.

8.2 Equality considerations:

- 8.2.1 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. A screening assessment identified a potential impact on individuals or groups with a 'protected characteristic' in the context of the proposed requirement relating to wheelchair accessible vehicles. As set out within the Equality Impact Assessment documentation appended to this report, a positive impact for wheelchair users was identified, i.e. that the proposed policy would assist in the aim of ensuring that wheelchair users can access hackney carriage vehicles with as little delay and inconvenience as possible. However, a potentially detrimental impact was identified in relation to non-wheelchair users who, due to mobility impairment, may find it more difficult to access a purpose-built wheelchair accessible vehicle.
- 8.2.2 Consultation has been carried out in order to seek the views of relevant stakeholders on this issue. Whilst a response from one disability group was supportive of the proposals, a number of other responses received suggested: (i) that, where possible, wheelchair users who are not wheelchair bound prefer to use a saloon vehicle and put the wheelchair in the boot of the vehicle; and (ii) that wheelchair accessible vehicles are more difficult for elderly passengers or those with mobility impairments to access.
- 8.2.3 The Equality Impact Assessment has identified that the proposed requirement in relation to wheelchair accessible vehicles raises potentially competing

interests between different groups with 'protected characteristics.' The decision-maker is required to consider the consultation responses and to make a decision balancing these interests.

9.0 Risk Management

- 9.1 Full consideration of any consultation responses received is required in order to avoid challenge to any decision made.

10.0 Background and Options

- 10.1 As Members will recall on 12th September 2011 the Committee considered a report in relation to the Council's existing hackney carriage vehicle conditions which are different in each of the three hackney carriage zones. The Committee resolved as follows:

RESOLVED

(a) That, subject to consultation, the draft hackney carriage vehicle conditions attached as Appendix D to the report be approved to apply in each of the three hackney carriage zones, subject to the inclusion of the following conditions:

- 1.3 - All vehicles presented for a new hackney carriage vehicle licence shall be purpose-built wheelchair accessible vehicles.*
- 1.4 - The vehicle shall be a manufacturer's right hand drive model with a minimum of four wheels and a minimum of four passenger seats and shall be finished in a production colour of the manufacturer for the model.*
- 2.5 - The vehicle shall not be fitted with a tow bar.*
- 2.7 - All glazing shall comply with the Road Vehicles (Construction and Use) Regulations 1986 (as amended).*
- 4.2 - Vehicles which are over seven years old shall be tested every six months. The age of the vehicle shall be calculated by reference to the date of first registration recorded in the Vehicle Registration Document (form V5) unless the vehicle was not new at the date of first registration in the UK.*

A copy of the proposed hackney carriage vehicle conditions as submitted for consultation is attached as Appendix A.

- 10.2 A consultation exercise was carried out between 12th October 2011 and 3rd January 2012. Correspondence in relation to the consultation was sent directly to hackney carriage vehicle proprietors and hackney carriage drivers, the three Chambers of Commerce & Enterprise within the Borough, to organisations representing those with disabilities 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.

- 10.3 The Council has received submissions from one hundred respondents to the proposed conditions; details of these consultation responses are set out in full within Appendix B to this report. As Members will note the vast majority of responses received relate to the issue of wheelchair accessible vehicles and, with one exception, these responses include objections to the principle of introducing a requirement that all new hackney carriage vehicles are wheelchair accessible. In summary, the respondents object to the proposal on the following grounds:
- (a) the cost to hackney carriage proprietors of purchasing wheelchair accessible vehicles;
 - (b) the suggestion that there is not a demand for this level of provision;
 - (c) the suggestion that, where possible, wheelchair users who are not wheelchair bound prefer to use a saloon vehicle and put the wheelchair in the boot of the vehicle;
 - (d) the suggestion that wheelchair accessible vehicles are both more difficult for elderly passengers or those with mobility impairments to access, and less comfortable for them than saloon cars;
 - (e) health and safety considerations in relation to the loading of vehicles;
 - (f) the suggestion that the imposition of a blanket requirement for wheelchair accessible vehicles would have a detrimental effect on the specialist companies currently providing this service; and
 - (g) the suggestion that wheelchair accessible vehicles have a more detrimental environmental impact than saloon vehicles.
- 10.4 As Members will recall, condition 3 of the zone 1 (Congleton zone) currently requires that "the minimum standard for all new licensed vehicle licences issued shall be: (a) a purpose built wheelchair accessible four door passenger saloon/estate or hatchback with minimum seating space of 16" per person." The conditions within zone 2 (Crewe) sets out the specification for wheelchair accessible vehicles; it is a policy requirement within the Crewe zone that new hackney carriages are wheelchair accessible. The conditions which relate to zone 3 (Macclesfield) include requirements for wheelchair accessible vehicles, but do not require that all new vehicle licences will only be issued to wheelchair accessible vehicles. However, it has become apparent since the report to the Committee in September that the policies in the Congleton and Crewe zones have been applied in such a manner as to provide 'grandfather rights' to existing licensed operators, i.e. those proprietors who held hackney carriage licences in relation to a saloon car were permitted to replace that vehicle with another saloon car despite the conditions in relation to wheelchair accessibility.
- 10.5 The issue in relation to the application of 'grandfather rights' has been raised within a number of the consultation responses. Responses query whether the approach previously taken in the Crewe and Congleton areas would apply or whether it is proposed that any vehicle which was to be licensed for the first

time after the introduction of such a condition would need to be wheelchair accessible.

- 10.6 Given the approach taken in the Crewe and Congleton zones, the imposition of the proposed condition relating to wheelchair accessibility for all new licensed vehicles would not simply be a method of harmonising the current approach but would rather impose a new policy in each of the three zones. Members are therefore specifically requested to consider the proposed condition relating to wheelchair accessible vehicles in the light of this information and the consultation responses received. Officers are also mindful that whilst one disability group has expressed support for the proposal a limited response has been received from wheelchair users. Further background information about the issues relating to wheelchair accessibility is set out within the extract from the 12th September 2011 Licensing Committee report attached as Appendix C.
- 10.7 Members are requested to consider the consultation responses attached within Appendix B and to determine whether to (i) approve the hackney carriage vehicle conditions with or without amendment; and/or (ii) in the light of the information within paragraph 10.3 – 10.6 above, to authorise additional consultation on the issue of wheelchair accessibility. It is further suggested that if any substantial amendments to the conditions are proposed then further consultation on any such amendments would be required.
- 10.7 On 12th September 2011 Members also considered a proposed set of vehicle test guidelines which were proposed to be applicable to the testing of hackney carriage 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 D to the report.
- 10.8 The Council has received four 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.

Relevant paragraph of vehicle test guidelines	Consultation response	Officer recommendation
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	<p>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.</p>	<p>Yes – it is recommended that an amendment is made to bring this in line with the proposed Hackney Carriage Vehicle Test Guidelines, i.e.</p> <p>16. Condition of spare tyre: Must have more than 2mm over total width of tyre;</p> <p>Space saver tyres: Slim/space saver type must be to manufacturer specification;</p> <p>Tyre inflation devices: Spare tyre may be replaced by an approved specified inflation system.</p>
Section A – 19	<p>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.</p>	<p>Accepted.</p>
Section A – 25	<p>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).</p>	<p>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.</p>
Section B – 2	<p>Submitted that would be more appropriate for the Licensing Section to check the LPG certificate when the licence application is submitted.</p>	<p>Accepted. Recommended that this requirement be removed from the test guidelines and added to the application procedure.</p>
Section A – 17	<p>Condition of spare tyre Standard MOT's require minimum tread depth of 1.6 mm over 75% of the total width of the tyre. I appreciate that taxis need to show a greater level of safety measures and I agree that 2 mm is acceptable, however, as most tyres even when new show a reduction in tread towards the edge of each tyre when approaching the sidewall, then requesting tyres should show a minimum of 2mm over a 100% of the width of the tyre is near on impossible and impractical and therefore will be open to interpretation by examiners. Therefore I believe that the minimum tread depth should be 2mm over a maximum of 90% of the tyre and not 100% to allow for the manufactured reduction in tread depth towards the sidewall.</p> <p>Therefore the condition should read – "must have more than 2mm continuous tread over at least 90% of the total width of the tyre on the full circumference."</p>	

Section A – 44	<p>Wheels and tyres “Must have more than 2 mm over the total width of the tyre on the full circumference.”</p> <p>See comment in relation to Section A – 17 above. Therefore the condition should read – “must have more than 2 mm continuous tread over at least 90% of the total width of the tyre on the full circumference.”</p>	
Section A – 17 & 44	<p>Wheels and tyres 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>	
Section A – 12	<p>Elements of heated rear window Regarding rear window heater, this I think should change to 4 or 5 not working elements</p>	Recommended that the requirement should stay as drafted, i.e. all elements should be working.
Section A – 56	<p>First aid kit Page 6 regarding First Aid kit, none of the drivers have any first aid training, maybe some could be sorted out, and if not why do we carry a kit?</p>	A first aid kit is required for the benefit of both the driver and the travelling public. There is no requirement from the Licensing Section for drivers to undertake first aid training.

Access to Information

APPENDIX A – Proposed hackney carriage conditions

APPENDIX B – Consultation responses

APPENDIX C – Extract from Licensing Committee report (12th September 2011)

APPENDIX D – Proposed hackney carriage vehicle test guidelines

APPENDIX E – Equality Impact Assessment documentation

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

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