

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 19 October 2009

Report of: Mr M Janes, Licensing Officer

Subject/Title: POLICY ON 'EXEMPT PLATING' OF PRIVATE HIRE VEHICLES AND DRIVERS

1.0 Report Summary

- 1.1 The report provides details of the consultation exercise carried out in relation to the proposed policy on 'exempt plating' of private hire vehicles and drivers within the Borough and invites the Committee to approve the policy.

2.0 Recommendations

- 2.1 The Licensing Committee is requested:

- 2.1.1 to approve the policy on 'exempt plating' of private hire vehicles and drivers in the form attached at Appendix 1 to this report; and
- 2.1.2 to delegate the power to determine applications for 'exempt plating' in line with the Council's policy, to the Licensing Manager. This delegation shall be subject to the proviso that the Licensing Manager shall have the discretion to refer such applications to the Licensing Sub-Committee for determination.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee has the power to licence private hire vehicles and drivers and to determine the policy which will apply to such licences.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications including - Climate change - Health

- 6.1 The report seeks approval for a new policy for the Borough to replace previous policies of the predecessor district authorities.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 None

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 None

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 requires the proprietor of a private hire vehicle to display the licence identification plate issued by the Council in the manner required by the Council's conditions. The Council's conditions state that "Private hire vehicles shall at all times clearly display on the exterior surface of the vehicle two licence plates supplied by the Council." Section 54(2)(a) of the Act requires the driver of a private hire vehicle to wear the badge issued by the Council in such a position and manner as to be plainly and distinctly visible.

9.2 Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 allows local authorities to grant to a licensed private hire proprietor an exemption from the requirement to display upon the licensed vehicle the private hire vehicle licence identification plate issued by the Council. Section 75(3) also provides that the Licensing Authority may grant to a licensed private hire driver an exemption from the requirement to wear/display the private hire driver's identification badge issued by the Council.

10.0 Risk Management

10.1 A consultation exercise has been carried out to ensure that interested parties have the opportunity to submit representations in relation to the proposed policy. By consulting on the policy and taking into account any responses received, the risk of legal challenge of the policy is minimised.

10.2 The adoption of a policy will assist in ensuring consistency of decision-making thereby reducing the risk of challenge to individual decisions.

11.0 Background and Options

11.1 The Council's vehicle conditions in relation to private hire vehicles require that the identification plates issued by the Council are 'clearly displayed on the exterior surface of the vehicle' at all times. Similarly, the conditions relating to private hire drivers require drivers to wear the driver's identification badge at all times when in or with the relevant private hire vehicle. As set out within the legal implications within paragraph 9, section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 provides the authority with the ability to issue exemptions from the requirement to display plates and badges.

11.2 As Members will recall, at its meeting on 20th July 2009 the Licensing Committee considered a report on the draft 'exempt plating' policy and resolved that the draft policy on 'exempt plating' be approved in order that it may be subject to consultation with the trade.

11.3 In July 2009 the Licensing Section forwarded to all licensed operators and drivers a Licensing Newsletter with accompanying correspondence seeking the trade's views on the proposal, including a copy of the proposed policy. Responses were requested to be returned by no later than Friday 11 September 2009.

- 11.4 There have been no responses received in relation to the policy and therefore the Members are requested to approve the policy on 'exempt plating' of private hire vehicles and drivers in the form attached at Appendix 1 to this report.

12.0 Overview of Year One and Term One Issues

- 12.1 It is suggested that it is advantageous to have a policy in place as soon as possible within Year One to ensure consistency of decision-making and to provide clarity for prospective applicants.

13.0 Access to Information

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

Name: Mr Mike Janes

Designation: Licensing Officer

Tel No: (01625) 504190

Email: mike.janes@cheshireeast.gov.uk

CHESHIRE EAST BOROUGH COUNCIL

LICENSING SECTION

EXEMPT PLATING

1. Introduction

It is clear that all 'private hire vehicles' within the meaning of section 80 of the Local Government (Miscellaneous Provisions) Act 1976 must be licensed with the relevant Licensing Authority.

The display of identification plates and badges is important in terms of protecting the public and the taxi trade. However, it is recognised that there are limited occasions, such as the operation of chauffeured, executive and limousine vehicles, where identification of the vehicle may have a negative effect both in terms of customer safety and commercial considerations.

This guidance is issued to set out the Council's position in relation to executive plating and to assist operators of 'executive' type vehicles who wish to make application for 'executive plates.'

2. Legal background

Section 48(6)(a) of the Local Government (Miscellaneous Provisions) Act 1976 (the Act) requires the proprietor of a private hire vehicle to display the licence identification plate issued by the Council upon the vehicle at all times that the vehicle is being used for the purposes of the licence.

Section 54(2)(a) of the Act requires the driver of a private hire vehicle to wear (display) the licence identification badge issued by the Council when acting in accordance with the requirements of the licence.

However, section 75(3) Local Government (Miscellaneous Provisions) Act 1976 allows local authorities to grant to a licensed private hire proprietor an exemption from the requirement to display upon the licensed vehicle the private hire vehicle licence identification plate issued by the Council.

Section 75(3) also provides that the Licensing Authority may grant to a licensed private hire driver an exemption from the requirement to wear/display the private hire driver's identification badge issued by the Council.

3. Procedure

The Council considers that this exemption will not be applicable to all private hire vehicles, but rather to a minority of vehicles operated as chauffeured, executive and limousine vehicles. Each application will be judged on its own merits, however, it is considered that this system is appropriate for those vehicles fulfilling the requirements set out below.

Exempt vehicles are subject to the same criteria as all licensed private hire vehicles in that they can only be driven by a private hire driver who is licensed by the same authority from which the vehicle licence and private hire operators licence were issued. In our case Cheshire East Borough Council.

3.1 Requirements

To be considered appropriate for executive plating, it is considered that the following criteria should be met:

- The vehicle is of a high quality both in terms of brand and condition;
- The vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim.
- Evidence of the service being provided must be supplied to justify the exemption.

3.2 Application

Applicants must submit a business plan for the use of the vehicle to satisfy the council that the exemption is appropriate.

A business plan may include , for example, the following factors:

- Target groups/clients
- Types of journey to be undertaken
- Method of advertising
- Method of payment
- The type of vehicle itself
- Whether the type of vehicle itself is the reason for hiring it (e.g., stretched limousine)
- Vehicle modifications
- Additional facilities provided
- Special driver qualifications or requirements (e.g. Chauffeur's uniform)

The vehicle must be operated **exclusively** as set out in the business plan.

Applications must be accompanied by the prescribed fee (which will be the same as that currently levied by the Council for private hire and hackney carriage vehicles) together with the business plan.

If all the requirements are met and the vehicle passes the Council's inspection then an Exemption Notice will be issued. If the requirements are not met then the application will be refused.

3.3 Notice

If the application is granted, the Licensing Authority will issue a formal notification of exemption (the Exemption Notice) to the applicant.

The Exemption Notice will not be granted for a period of more than one year and shall expire upon the expiry of the private hire vehicle licence.

3.4 Identification Badge

The Council will issue the proprietor with an identification badge to include the following information:

- The private hire vehicle licence number;
- The registration number of the vehicle;
- The number of persons the vehicle is licensed to carry;
- The expiry date of the licence.

The identification badge must be displayed within the vehicle in line with the standard Cheshire East Borough Council private hire vehicle conditions.

3.5 Conditions

The Exemption Notice is granted subject to the licensed private hire vehicle being operated in accordance with standard Cheshire East Borough Council private hire vehicle conditions. Failure to comply with these conditions may result in the withdrawal of the Exemption Notice referred to as special licence condition number 10. see paragraph 3.6 below.

The conditions for executive plated vehicles will include condition 10 of the Cheshire East private hire vehicle conditions.

10 SPECIAL CONDITION for EXECUTIVE LIMOUSINES

10.1 When Condition number 10 is attached to the licence Conditions numbers 7 and 8 shall not apply. ***[Condition 7 relates to signs and notices. Condition 8 relates to Licence Plates.]*** Condition number 10 will only be applied to a licence at the discretion of the Council and may be withdrawn at any time if the Council is not satisfied that the vehicle is being used or operated in accordance with the plan submitted to the Council in support of an application made for it to be subject to Special Condition number 10.

10.2 The notice of the grant of special licence condition number 10 shall be carried in the vehicle at all times.

10.3 Windscreen Sign

The vehicle shall display at all times in the lower near side of the windscreen and visible from the outside of the vehicle a private hire vehicle identification badge supplied by the Council. The form and content of the badge shall be prescribed by the Council.

- 10.4 The identification badge shall at all times remain the property of the Council and the licensee shall not cause or permit the information displayed upon the badge to be altered, removed or obscured in any way.

10.5 Interior Sign

The vehicle shall display at all times a private hire vehicle identification sign supplied by the Council and be visible to passengers from within the vehicle. The form and content of the sign shall be visible shall be prescribed by the Council.

- 10.6 No other advertisements, signs, notices, numbers, marks, etc shall be displayed on, in or from the vehicle without the prior written approval of the Council.

- 10.7 Any advertisements, signs, notices, numbers, marks, etc borne on the vehicle shall not consist of or include the word "taxi" or "cab" whether in the singular or plural or any word of similar meaning or appearance, whether alone or as part of another word and shall not suggest that the vehicle is a Hackney Carriage.

- 10.8 The types and makes of vehicle manufactured by London Taxis International and Metrocab now or from time to time operating as a taxi within the Metropolitan Police District and the City of London and licensed as such by the Public Carriage Office of Transport for London, Panton Street, London shall not be used as a private hire vehicle.

3.6 Withdrawal of Exemption Notice.

The exemption notice will be withdrawn from the licence if the Council is not satisfied that the vehicle is being or has been operated exclusively in accordance with the business plan, then the vehicle will become fully subject to the Cheshire East Borough Council private hire vehicle licence conditions requiring the display of licence plates and private hire signs.

If the exemption notice is withdrawn, the costs in relation to the production of the licence plates will be borne by the operator/vehicle proprietor.