

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 19 October 2009

Report of: Mr M Janes, Licensing Officer

Subject/Title: PRIVATE HIRE VEHICLE CONDITION 1.4

1.0 Report Summary

- 1.1 The report provides details of the consultation exercise carried out in relation to an amendment to condition 1.4 of the Council's private hire vehicle conditions and invites the Committee to determine whether the condition should be amended.

2.0 Recommendations

- 2.1 The Licensing Committee is requested:
 - 2.1.1 to consider the consultation responses received in relation to the proposed amendment of condition 1.4; and
 - 2.1.2 to resolve whether, in the light of the consultation responses, to amend condition 1.4, and if so, to determine the wording of the amendment.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee has the power to licence private hire vehicles and to determine the conditions 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 requests the Licensing Committee to consider whether condition 1.4 of the Council's private hire vehicle conditions should be amended. As the conditions effectively dictate the type of vehicle which will be licensed by the Council as private hire vehicles, this is a policy decision.

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(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 provides that the authority shall not grant a private hire vehicle licence unless it is satisfied that (i) the vehicle is suitable in type, size and design for use as a private hire vehicle; (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage; (iii) in suitable mechanical condition; (iv) safe; and (v) comfortable. Section 48(2) further provides that the authority may attach to the grant of a private hire vehicle licence such conditions as it considers 'reasonably necessary.'

9.2 In making a decision on conditions relating to the type/design of private hire vehicle, the authority must be satisfied that the condition is reasonably necessary in the light of the requirements within section 48(1).

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 proposal and taking into account any responses received, the risk of legal challenge of the condition is minimised.

11.0 Background and Options

11.1 On 13th March 2009 the Licensing Committee considered a report in relation to conditions which were proposed for private hire vehicle licences issued by the Borough Council from 1 April 2009. The proposed conditions included the following in relation to the type of vehicle which would be considered for licensing as a private hire vehicle:

"1.4 It shall have a minimum of four doors at least three of which shall be fitted to the side of the vehicle. All the doors must be capable of use by persons for both access and egress and of being opened from both the inside and the outside. If the vehicle is fitted with an electronic locking system it must be capable of being overridden to enable the doors to be opened manually."

11.2 The report to Members suggested that, subject to further consultation, it may be appropriate to amend condition 1.4 to include a requirement that the vehicle have a minimum of four doors including two on the nearside and two on the offside. The report recognised that this condition would more effectively limit the

size of vehicles which are acceptable for licensing for private hire purposes as it would, in practice, exclude former PSVs as such vehicles are typically constructed with only two or three side doors.

11.3 The Licensing Committee resolved:

(a) That the proposed licence conditions in relation to private hire vehicles, as amended following the consultation exercise, be approved for implementation from 1 April 2009.

(b) That a further consultation exercise be undertaken with the holders of private hire vehicle licences on the proposal to amend the wording of the first sentence of condition number 1.4 to:

“It shall have a minimum number of four doors, including two on the near side and two on the offside.”

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 to change the wording of condition 1.4 of Cheshire East Borough Council's Private Hire Conditions. Responses were requested to be returned by no later than Friday 11 September 2009.

11.4 The Council has received two consultation responses the full detail of which are set out within Appendices A and B. In summary, however the responses make the following points:

11.4.1 Appendix A: The condition is an artificial way of introducing a limit on vehicle size; if such vehicles are approved by the Traffic Commissioners on what grounds does the Council believe that they are unsafe.

11.4.2 Appendix B: Summary:- If a private hire vehicle has only one side door (rear of 2x front doors) then the very rear door of vehicle must be of a 2x piece configuration.

11.4.3 Appendix C: This vehicle has been operated under private hire licence for a number of years, the proposed wording allows no provision for this format, which in honesty is safer, when parked at a curb with a number of people trying to disembark on the road side of the vehicle can be extremely hazardous in traffic, this vehicle does not allow this option.

11.4.4 Appendix D: The amended wording caters adequately for saloon cars / hatchbacks. However it is NOT adequate for larger vehicles e.g. Mini-Bus.

11.5 Whilst the report to Committee on 13th March 2009 stated that the purpose of the proposed amendment was to more effectively limit the size of private hire vehicles which may be licensed, it is submitted that the amendment is also important from the perspective of passenger safety. One of the primary concerns for the Council when considering the licensing of private hire vehicles is the method of escape from the vehicle in the case of accident or emergency.

The concern about condition 1.4 as currently drafted is that it would permit the licensing of vehicles where the only method of exiting a vehicle for passengers in the rear is through either a door on one side of the vehicle or through the rear. In the case of an accident where there was a side impact or where the vehicle rolled onto the side on which the door is located, exit for passengers in the rear may be impeded. In such cases the rear door may be the only route for escape from the vehicle; it is suggested that this would be acceptable if the rear door were a 'split door' but that there may be problems if the rear door were a single door which may become inoperable if the vehicle were to overturn causing damage to the door or its opening mechanism.

- 11.6 In the light of the consultation responses received, the Committee is therefore asked to consider an amendment to condition 1.4 as shown underlined below:

"1.4 It shall have a minimum of four doors of which either (a) two shall be on the near side and two on the offside or (b) in circumstances where the rear door of the vehicle is a 'split door,' at least three doors shall be fitted to a sides of the vehicle. All the doors must be capable of use by persons for both access and egress and of being opened from both the inside and the outside. If the vehicle is fitted with an electronic locking system it must be capable of being overridden to enable the doors to be opened manually."

12.0 Overview of Year One and Term One Issues

- 12.1 It is suggested that a decision on this condition is made as soon as possible to ensure clarity for prospective applicants.

13.0 Access to Information

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

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APPENDIX A

Proposed further consultation on large ex- PSVs as 8 seat PHV's.

The council seems intent on restricting these vehicles by introducing an artificial 'condition' - two doors on each side of the vehicle.

If such vehicles are approved by the Traffic Commissioners to carry substantially more persons in safety and comfort, on what grounds does Cheshire East believe these vehicles with lesser number of passengers are unsafe?

If there are concerns about drivers ability to handle vehicles of this size they could require applicants to satisfy a PCV practical driver test.