

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 29

Brighton & Hove City Council

Subject:	Hackney Carriage and Private Hire, Drivers, Vehicles and Operators Blue Book Review - 3rd Edition		
Date of Meeting:	6 March 2014		
Report of:	Head of Regulatory Services		
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Wards Affected:	All		

1. PURPOSE OF REPORT AND POLICY CONTEXT:

To review byelaws, conditions advice and information for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators contained in the blue handbook. (The Blue Book).

2. RECOMMENDATIONS:

- 2.1 That Committee approve the handbook 3rd Edition of the handbook (Appendix A)

3. CONTEXT/ BACKGROUND INFORMATION:

- 3.1 The Council licenses Hackney Carriage and Private Hire, Drivers, Vehicles, and Private Hire Operators. The authority for doing so is by adoption of the Local Government (Miscellaneous Provisions) Act 1976, Part II. (Section 45), The Town Police Clauses Act 1847, (Section 68) and the Public Health Act 1875, (Section 171).

The Acts require that the Council must be satisfied that the vehicle is: -

- suitable in type, size and design for use as a hackney carriage or private hire vehicle and it is in a suitable mechanical condition, safe and comfortable.

In the case of private hire vehicles it is further required that

- they must not be of such design or appearance as to lead any person to believe that the vehicle is a hackney carriage.

Any vehicle used as a hackney carriage or for private hire must

- have in force a policy of insurance in relation to the use of that vehicle.

In addition to the statutory requirements a Council may attach to the grant of a licence such conditions, as the Council considers reasonably necessary. However, the 1985 Transport Act specifically states that the Council shall not refuse such a licence for the purpose of limiting the number of vehicles in respect

of which such licences are granted by the Council. It should be noted that in the case of hackney carriages the numbers may be limited only if the Council can show there to be no significant unmet demand for this type of vehicle licence. In respect of the issue of driver's licences the Local Government (Miscellaneous Provisions) Act of 1976 requires the Council to be satisfied that each applicant is a fit and proper person to hold such a licence prior to its grant. There is no authority to attach any condition to a hackney carriage driver's licence as they are controlled by means of byelaws, but conditions may be applied to private hire driver licences.

- 3.2 The handbook was designed to combine many bye laws, conditions, advice and information for hackney carriage and private hire drivers, vehicles and operators previously in various and separate forms and was first approved by committee in February 2007. Some conditions have been amended for the 3rd edition to reflect current working practices and changes in legislation and changes of policy already agreed by committee. Other minor alterations have been made to wording and sequencing in order to make the book more user friendly.
- 3.3 The council is empowered in law to check for the existence and content of any criminal record held in respect of an applicant for a hackney carriage or private hire, vehicle, driver or operator licence so when submitting an application for such a licence an applicant is required to declare all convictions (whether or not spent), Cautions, Conditional Cautions, Community Resolutions, Anti Social Behaviour Orders, Criminal Behaviour Orders, County Court and High Court Injunctions, including Injunctions to prevent nuisance and annoyance or Fixed Penalty Notices (personally or business related), they have recorded against them, and any pending proceedings. The guidance relating to the relevance of the above types of offences when considering an application or reviewing an existing licence has been extensively amended and brought up to date with new types of offences. Section 2.(D) 130 -145.
- 3.4 Vehicle type approval in the case of conversions is clarified with vehicles required to hold National Small Series Type Approval or Individual Vehicle Approval. The licensing of category C & D "write offs" is also clarified and the requirement of a Vehicle Identity Check issued for category C and written confirmation from the insurer that the insurer is aware that the vehicle is a C or D "write off". Explanation of categories: **Category C**: the vehicle is repairable but the costs exceed the vehicle's value. Can re-appear on road. **Category D**: the vehicle is repairable but repair costs are significant compared to the vehicle value. Can re-appear on road. For information on the EC Whole Vehicle Type Approval, National Small Series Type Approval and Individual Vehicle Approval Scheme.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209278/guide-to-the-iva-scheme.pdf

- 3.5 Hackney Carriage Wheelchair Accessible Vehicles will normally be required to comply with the requirements of the Council's Hackney Carriage Accessibility Policy in place at the time of licensing.
- 3.6 Existing policy requires vehicles over 10 years or older to have 6 monthly compliance testing. To ease the administration of the requirement it is proposed that vehicles 10 years or older will require relicensing at six monthly intervals. Also where any vehicle is found with excessive or dangerous faults on a fitness test only a 6 month licence is granted until such time as the Council is satisfied that the vehicle is being maintained to a satisfactory standard. Licence conditions may in future move to emission standard and not age subject to further consultation with the local licensed trade.
- 3.7 The requirement for hackney carriages to be returned to white upon ceasing to be a licensed vehicle has been removed. It is now common practice for vehicles to be part exchanged by specialist dealers rather than private sales. This allows a quick turn around for a proprietor when replacing a vehicle. It also removes a cost burden to proprietors at a time when they have considerable expense to licence a new vehicle i.e. fitting CCTV. However, if there appears to be a problem with rogue vehicles acting as hackney carriages this may need to be reviewed.
- 3.8 The restriction on tinted windows is also removed for both hackney carriage and private hire vehicles. When the restriction was first introduced for safety reasons few vehicles were supplied with tinted windows. It has now become the norm for vehicles especially at the higher spec vehicle derivative to only come with tinted windows limiting the vehicles available to a proprietor or at great cost changing windows. Since the restriction was introduced compulsory CCTV has been introduced which has alleviated some of the fears relating to the safety of the driver or passengers. However, some risks remain for example attacks on drivers and overloading. Licence holders consider that CCTV should provide sufficient provision for detection and deterrence.
- 3.9 The guidance on CCTV has been amended and any system must be of a sufficient standard to clearly record all persons in the vehicle with the objective of preventing disorder or crime, public safety, the protection of health & morals, and the protection of rights & freedoms of others and to confirm or rebut complaints made against the driver or as evidence in motor insurance matters. The guidance now requires a minimum retention period of at least 28 days for any recording. However, due to the cost implications of retaining data for 28 days it is proposed that this required retention period will only come into force from 1st April 2015 at initial licensing or renewal. Currently there is no retention period and officers have been unable to obtain recordings for various reasons as they have been overwritten (see appendix 2). However, requests made by Officers for recordings are only a proportion of the total requests made to data controllers for example complaints made directly to operators or to the Police where shorter timescales are involved are anecdotally more successful. Officers have only received one report from the police that they were unable to obtain footage to help with their

enquiries and Operators have reported that CCTV footage has exonerated several drivers following serious accusations.

- 3.10 The latest Brighton & Hove hackney Carriage Unmet demand Survey (Halcrow report) asked drivers whether they agreed with the current policy of all vehicles having CCTV. 71.9% of hackney carriage and 54.1% of private hire respondents agreed with the policy. The public attitude survey carried out by Halcrow shows that 88.4% of respondents agreed with the Council's policy of having CCTV fitted in taxis.
- 3.11 Officers aim to avoid gold plating the specification for CCTV; ill thought-out, detailed but incorrect specification could cost licence holders time and money. There is a government (Department of Business Innovation and Skills) requirement for the Council to maintain a business friendly regulatory environment; that means that Council policy-making needs to achieve proportionality, consistency and transparency without imposing unnecessary burdens on business. Licence conditions should not be imprecise or difficult for the licence holder to observe; they should impose the minimum necessary burden to achieve the necessary public safety protection.
- 3.12 The Advertising guidance has also been amended to allow built in headrest DVD/Video and headrest cover advertising. It is hoped this will increase potential income for a proprietor of a vehicle.
- 3.13 The requirement for a minimum engine capacity of at least 1600cc is removed to allow smaller lighter vehicles with alternative fuel types and flexibility on the number of passengers a vehicle may be licensed for as part of proposals to lower emissions from hackney carriages and private hire vehicles. Licensing lighter smaller vehicles with smaller engines that carry fewer passengers may create opportunities for local enterprise and open new market opportunities as well as creating conditions to improve air quality.
- 3.14 A formal process for the determination of appeals against the refusal to allow the "renewal" of an expired licence has been included. In 2011 Exeter City Council was taken to court with regard to the late licensing of a vehicle (Exeter City Council v Sandle 2011). The Judge concluded that an expired licence could not be renewed as it ceased to exist on expiry and only in exceptional circumstances should an application for renewal be entertained after a delay of two to three days.
- 3.15 Private Hire Operators will be required to have a document setting out their policies and procedures in relation to those with a disability. They will also be required to undertake monitoring of use of their service by those with a disability and provide a summary of monitoring in a format as required by the council. Operators will also be required to have a document summarising all complaints received during the previous year whether upheld or not.

- 3.16 Any amendments, changes or additions approved and issued by the council to this handbook must be attached to the inside of this cover and treated as if they are part of the handbook.
- 3.17 It is best practice to review any policies adopted by the council every three years. The handbook should therefore be reviewed in 2017.
- 3.18 It is intended that the handbook will be produced in a booklet format and made available for all hackney carriage & private hire, drivers, proprietors & operators.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

None

5. COMMUNITY ENGAGEMENT & CONSULTATION

Finance and Legal Services Taxi Forum. Local Authority Designated Officer / Safeguarding & Quality Assurance Unit. The matter has been discussed at the council's Hackney Carriage and Private Hire Consultation Forum. A draft of the Blue Book and CCTV guidance was circulated to members of the forum inviting comments. No comments were received regarding the Blue Book. There are opposing views from the trade regarding CCTV and retention periods mainly related to additional costs burden to proprietors.

6. CONCLUSION

That members consider the recommendations

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications

The financial implications associated to the recommendations in this report will be met from within existing Environmental Health & Licensing revenue budgets.

Finance Officer Consulted: Steven Bedford

Date: 10/01/2014

7.2 Legal Implications

These are detailed in the body of the report

Lawyer Rebecca Sidell Date: 14/01/14

7.3 Equalities Implications:

Recommendations are designed to promote equality of opportunity, eliminate unlawful discrimination, promote participation in public life and meet the needs of disabled people. Improving access to taxis/Private Hire Vehicles (PHVs) is a

priority action in the council's Equality Scheme. Improving access to services by public transport is included in the Local Area Agreement.

7.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

7.5 Any Other Significant Implications :

Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime and increasing the safety of passengers and drivers.

The transport industry should be safe, profitable and be a positive experience for residents and visitors. Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

SUPPORTING DOCUMENTATION

Appendices:

- 1. 3rd Edition of the Blue Book**
- 2. CCTV log spread sheet**