

Consideration to review the Licensing of vehicles with tinted windows

Licensing Committee

Date: 5 October 2017

Review Author: Kathryn Ashton – Licensing Manager

Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 The purpose of this report is to consider the requests from the trade to amend the Council's policy on the suitability of vehicles fitness to be licensed for use as Hackney Carriage or Private Hire with regards tinted windows. This report is to consider removing the restriction regarding tinted windows on private hire vehicles designated as 'plate exempt'.
- 1.2 Plate exempt vehicles or special occasion vehicles are operated under contract and work for operators licensed as chauffeur companies. These vehicles are normally prestige vehicles.
- 1.2 Letters requesting removal of the current restriction have been received from the proprietors of Flight link Executive Travel and T 'N' C Cars and are shown at Appendix A and Appendix B.

2. Recommendations

That the Committee:

- 2.1 Agree to the request for the removal of the tint restriction on private hire vehicles licensed with a plate exemption, on all glass beyond the 'B' post (see fig 1 at 3.2) which is the rear glass. All other glass should meet the Road Vehicles (Construction and Use) Regulations 1986 which specify the minimum levels of light which must pass through the windscreen and the front windows of the vehicle; and
- 2.2 Apply this only in respect of plate exempt vehicles and **not** to any vehicles where a combination of routine private hire and chauffeur work takes place.

3. Detail/Background

- 3.1 The Road Vehicles (Construction and Use) Regulations 1986 as amended specifies the minimum levels of light that must pass through the windscreen and front side windows. For vehicles first used prior to 1 April 1985, the windscreen and front side windows must allow at least 70% of light to be transmitted through them. For vehicles first used on or after 1 April 1985, the light transmitted through the windscreen must be 75% and 70% through the front side windows. If the glass is tinted to a point whereby it lets less light through, then the vehicle does not meet the legal requirements. The Road Vehicles (Construction and Use) Regulations 1986 specify the minimum levels of light which must pass through the windscreen and the front windows of the vehicle. These Regulations do not extend to the remaining windows in a vehicle.

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: kashton@swindon.gov.uk

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- 3.2 Officers will allow any vehicle which does not meet the above requirement. Hence a vehicle would not pass an MOT and/or be deemed acceptable to be a licensed taxi if it did not allow the appropriate amount of light through the windscreen and front side windows.
- The legislation does not lay down any criteria for any other windows within the Vehicle.
 - Excessively tinted glass, rear of the 'B' post, (see Fig. 1 below), is referred to as Privacy Glass. Privacy glass is defined as glass that is of a darker shade (regardless of how much darker) behind the 'B' post of a vehicle when compared to the glass that is in front of it.
 - When Hackney Carriage & Private Hire vehicles undergo an inspection, local Licensing authorities will need to determine what constitutes tinted 'privacy' glass. As explained above, the Regulation is quite specific with regard to permissible light levels for tinted glass for windscreens and front side windows, but not for windows behind the "B" post.
 - Lack of visibility caused by 'tinted glass' is seen as a serious public safety issue. It is deemed best practice and in the interests of passenger and driver safety, and an aid to enforcement, if there is good visibility through windows behind the "B" post.
 - In practice Authorities have local policies which support the national legislation. These lay down local requirements the vehicle design is normally expected to reach.
 - It should be noted the amount of light that is transmitted through any window can be measured with a light meter device. Swindon Borough Council Licensing Authority carries out such checks.



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- 3.3 In June 2017, The Council resolved to modify the conditions applying to private hire vehicles and hackney carriage saloon vehicles newly-presented for licensing that would allow for the rear screen to retain a manufacturer tint with all other windows on the vehicle retaining glass that allows the transmission of at least 70% of light. No vehicle should be considered for licensing that has an applied tint
- 3.4 The Council, in licensing vehicles as Hackney Carriages or for Private Hire work, is responsible for ensuring that the vehicle is suitable in type, size and design to be licensed. Officers have noted that vehicles with dark tinted windows and privacy glass are becoming more popular and manufacturers are now supplying these as standard, particularly in higher quality vehicles.
- 3.5 Therefore vehicle providers are finding it increasingly difficult to source vehicles that meet the current Council requirements. For those companies operating in a competitive market such as described in Appendix A, have clients that expect that the vehicle provided has tinted glass fitted on the rear windows beyond post 'B' as standard.
- 3.6 Officers are of the opinion the overarching principle behind the licensing of private hire and hackney carriage vehicles is one of public safety. Based on this overarching principle the Council implemented a tinted window policy.
- 3.7 Officers are of the opinion that in the light of current issues such as Child Sexual Exploitation (CSE) that the current reasons for maintaining the tint restriction on private hire and hackney carriage vehicles which are used daily for transporting members of the public are still valid. However it is recognised that the type of clientele using chauffeur companies under contract for journeys to airports and to business meetings using plate exempt vehicles are not at the same risk posed to children and vulnerable adults.

4.0 Options

- 4.1 The current restriction remains the same, namely, all licensed vehicles, either plated or plate exempt with a factory tint on the rear windscreen.
- 4.2 The restriction is removed in respect of plate exempt vehicles allowing a factory tint on all windows beyond the 'B' post and excluding those covered by The Road Vehicles (Construction and Use) Regulations 1986.
- 4.3

5.0 Consultation with the trade

- 5.1 There has been no separate formal consultation with individual licence holders.

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6. Conclusion

- 6.1 It is intended that if Members agree to any change in conditions, that this will be implemented on the 1 November 2017.
- 6.2 It is not intended for the proposed condition to be retrospective and apply to those vehicles currently licensed. Operators of existing vehicles will not be permitted to modify their windows by fitting darker glass or to apply laminated film to glass, which would make the vehicle non-compliant with the condition.

7 Financial and Procurement Implications

- 7.1 There are no direct financial implications arising from the report.
- 7.2 Any amendment or removal of the Tint restriction would not impose additional costs nor generate any income for the Council.
- 7.3 However there will be cost to the Council in terms of officer time in the carrying out of the more extensive inspections to ensure that officers do not fetter their discretion

8 Legal and Human Rights Implications

- 8.1 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.
- 8.2 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder) this report relates to the requirements of licensing legislation.

9.0 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

10.0 Consultees

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The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

11.0 Appendices

- 12.1 Appendix A - Request from Flight link
- 12.2 Appendix B - Request from T 'N' C Cars