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To: All Members of the Licensing
Committee

Please ask Shaun Banks (Telephone:
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sbanks@swindon.gov.uk

Dear Councillor,

Licensing Committee – Thursday, 5 September 2019

I refer to the agenda for the above meeting and enclose report(s) in relation to the following Agenda Item(s):

- 5. Consideration to introduce conditions to allow the seating capacity of wheelchair accessible Hackney Carriages to include the use of front seats**
(Pages 3 - 10)

Yours faithfully,

Shaun Banks

Shaun Banks (Telephone: 07980 752047)
for Chief Legal Officer



Stephen P. Taylor M.A (Oxon), Solicitor
Director of Law and Democratic Services

Consideration of Taxi trade requests to allow Hackney Carriages to include the use of front seats.

**Licensing Committee
2019**

Date: 5th September

Author: Kathryn Ashton – Licensing Manager

Wards: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 The purpose of this report is to consider requests made from the Taxi Trade to enable the use of the seats of a hackney carriage vehicle located in front of the partition which is currently prohibited.

2. Recommendations

That The Committee:

Consider the requests from the trade attached as appendix A and determine whether there should be any change to the operational procedures that prevent the use of the front seat of a purpose built hackney carriage vehicle for the reasons of public safety of both driver and passengers

3. Background and Detail

- 3.1 At the meeting on 29 July 2019 it was agreed that a Hackney Carriage licence seating capacity was restricted to the number of seats behind the partition. The front seats are not permitted to be used.
- 3.2 The Licensing Authority is of the view that the front seat of a purpose built hackney carriage should not be used where there is a partition unless the journey is pre booked. The justification for this is that if a journey is pre-booked, then the booking should be made in compliance with the requirements for private hire vehicles, and details of the passenger is taken, and details of the journey. This is viewed as a protective measure for the driver.
- 3.3 In May 1989 the Council resolved that any further Hackney Carriage licences would only be issued “for purpose-built, wheelchair-accessible Hackney Carriages which comply with the conditions of fitness of the Metropolitan Police Public Carriage Office which are currently in force.” In practice, this restricted vehicles to the traditional London-style cab. However, holders of those licences which were first issued prior to May 1989 were able to continue with their entitlement to licence a saloon car as ‘grandfather rights’.
- 3.2 Following a decision taken by Licensing Committee to delimit the number of Hackney Carriage licences from 1st February 2006, a revised specification for Hackney Carriages was agreed, allowing wheelchair accessible vehicles other than those that met the Metropolitan Conditions of fitness to be licensed as Hackney Carriages in Swindon. Prior to this change the London style cab and the Metro cab were the only vehicles that were licensed. In these vehicles there was

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**Licensing Committee
2019**

Date: 5th September

no front seat as this space was used for luggage so the vehicle was licensed for the seating capacity in the rear beyond the safety partition.

- 3.3 It was felt that this was too restrictive and would not encourage new entrants to the trade. In recent years the alternative vehicle market has grown and can now provide fully wheelchair-accessible vehicles which, although they do not fully meet the Metropolitan Conditions of Fitness in every respect, are nevertheless suitable for licensing as Hackney Carriages. It was therefore recommended that the revised specification be adopted from the 1st February 2006.
- 3.4 In 2006 the E7 was the only alternative vehicle that was presented for licensing as a hackney carriage vehicle and also had a partition separating passengers from the driver. This also was unsuitable to carry a passenger in the front of the vehicle not only for safety reasons but also because the bulk head had to be adjusted to enable introduction of the partition. More recently other purpose built vehicles with a partition have been licensed with the delegated authority of the Licensing Manager
- 3.6 This practice has been in place as an implied restriction since 1989. For clarity it was brought to the Licensing Committee on the 29th July 2019. The Licensing Committee resolved that it become a specific clear condition attached to each licence.
- 3.7 Following the decision on 29th July 2019 the trade have made representations to amend the operational restrictions and these are attached as Appendix A.

4.0 Options

- 4.1 Option 1 - Leave the situation as it is, ie the number of passengers permitted will be limited to the number of seats behind the partition, and the front seats are not to be used.
- 4.2 Option 2 - Where there is a partition, permit the maximum passenger capacity to be for the total number of seats in the vehicle, including the front seats so that all seats are available for all journeys whether pre-booked or not
- 4.3 Option 3 - The maximum passenger capacity to be for the total number of seats in the vehicle, including the front seats only in vehicles where there is no partition.
- 4.4 Option 4 – Where there is a partition, the maximum passenger capacity to be for the total number of seats in the vehicle, including the front seats, but the front seats may be used only where the journey is pre-booked in accordance with the private hire requirements.

5.0 Implications

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**Licensing Committee
2019**

Date: 5th September

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- 5.1 Option 1, (when plying for hire), would protect the safety of both passengers and drivers by ensuring each is protected by the partition.
 - 5.2 Option 2 would place passengers directly next to the driver and may pose a risk to the safety of the driver on the basis that they do not know who is getting in the cab. The risk to the passenger is exacerbated by the partition preventing accompanying passengers in the rear of the vehicle intervening to protect the fellow passenger if needed.
 - 5.3 Option 3 brings black cabs in line with hackney carriage saloons with grandfather rights, albeit the black cabs have greater seating capacity.
 - 5.4 Option 4 when pre-booked properly, taking full passenger and journey details would reduce the safety risk to the driver, although there will be no greater protection afforded to the passenger.
 - 5.5 By permitting all seats to be occupied, passengers may become confrontational if the driver decides they do not wish to permit anyone to sit in the front and this may pose a risk to the safety of the driver and passengers.
 - 5.6 If partitions were to be removed the EEC M1 Whole Vehicle Type Approval Certificate would still be required.

6.0 Consultation with the trade

- 6.1 There has been no separate formal consultation by the Licensing office directly with drivers.
- 6.2 Since the Licensing Committee on 29 July 2019, some drivers have indicated a potential loss of income due to a licence being granted in respect of the number of seats behind the partition only. Copies of the correspondence received is at Appendix A.
- 6.3 As of this date there are 158 Hackney Carriage Drivers and 100 Hackney Carriage Vehicles licensed by Swindon Borough Council. Of the hackney vehicles there are 43 saloon vehicles on 'grandfather rights' (which do not have a partition).

7. Conclusion

The implied restriction that has been in place regarding restriction of the front seat is now formalised as a condition attached to all new and renewal applications in accordance with the decision of the Licensing Committee on 29 July 2019.

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**Licensing Committee
2019**

Date: 5th September

8. Implications, Diversity Impact Assessment and Risk Management

A DIA is available on request

9 Financial and Procurement Implications

9.1 There are no direct financial implications arising from the report.

10 Legal and Human Rights Implications

10.1 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.

10.2 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder) This report relates to the requirements of licensing legislation.

11.0 Diversity Impact Assessment

A DIA is available on request.

12.0 Consultees

The Chief Legal Officer (Monitoring Officer) is consulted in respect of all reports.

13.0 Appendices

Appendix A Emails from Hackney Carriage proprietors and drivers in support of allowing the use of front seats when plying for hire.

APPENDIX A

Emails from trade members relating to the report on Hackney Carriage Seating.

(1)

As a Hackney driver with over 19 years experience in the borough, I must say that I am extremely disappointed that the council is proposing to reduce my ability to carry the extra passenger that until now, has been available to anyone with the extra seating capacity. Especially as I've only just purchased a brand new vehicle for this express purpose at a cost of £38,000. Now, whilst I appreciate the desire to ameliorate the situation for safety reasons, the travelling public, as well as the

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**Licensing Committee
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Date: 5th September

driver, I believe reducing the capacity to carry passengers is a step way too far. I mean if keeping the public away from the drivers and vice versa is the paramount objective, then why stop at Hackney vehicles? I mean every private hire vehicle should have to conform to the same criteria. But then why stop at the travelling public? Why not legislate that anyone dealing with the public like newsagents and kebab shops have shields keeping them at arms length from the public?

I just think this is all a bit of a rushed reaction to the complaint made by a certain taxi driver who had his plate capacity reduced. So why not do simplest of things and allow all Hackney vehicles to be plated for as many seats that are available in the vehicle. As the council does with private hire vehicles, and not waste taxpayers money fighting numerous unnecessary claims for compensation which I believe we could well be entitled too.

Yours sincerely Mark Bates badge 292.

(2)

Hello my name is Dave Mackie I am a Hackney carriage driver (HD190) and vehicle owner plate number HV305.

As a private hire and hackney owner driver with over 40years experience i was dismayed when informed that the right to use the 7th seat in my vehicle for private hire bookings was being rescinded. Having owned various vehicles over the years LTI TX2 5 + 1 seating capacity Peugeot E7 6 + 1 seating capacity present vehicle Ford Allied Pro Cab 6 + 1 seating capacity I have always insured the vehicle for all passenger seats to be covered under the policy .Over the last five years i have purchased 2 new vehicles at a total cost of over £70000.00 to conform to the criteria set by Swindon borough council for a Hackney carriage. To finance this due to lack of rank spaces and a total change in the taxi business environment have developed a website to generate income which has been successful partly on the basis of being able to transport up to 7 passengers for this to be taken away now would be catastrophic in terms of costs involved in changing web information which in turn could alter my web rankings which have taken four years to establish , new business cards eta loss of income estimated at £2800 -£3200 a year from 7 passenger bookings .I should say I was happy with the status quo in place for the past few years with the extra seat for private hire bookings only but as things now stand I would support any proposal that would allow me to continue my business as I have done for the past.

Yours Sincerely David Malcolm Mackie

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**Licensing Committee
2019**

Date: 5th September

(3)

Dear Kathryn,

Further to my submission of 26 July 2019 for the above request to be put before the Taxi Licensing Committee, I have, on your advice, spoken to a number of trade members, mainly those who have purchased and licensed a new purpose built, wheelchair accessible taxi in the last 2 years and those considerably affected by the potential loss of use of additional seating when using their vehicles for the purpose of private hire bookings and contract work.

This submission outlines the need for consideration for purpose built, wheelchair accessible taxis to be used to their full potential so they can continue to offer the public a choice, while not placing unfair restrictions or financial burden on the owners of these taxis.

the following listed drivers have given consent for this submission to represent their opinion and interests in this matter so there is a unified approach in their opposition to the licensing restrictions agreed at the last meeting and pledged their support for a proposal to change the licensing conditions to allow their businesses to continue in a more acceptable manner to reflect the conditions previously in place for many years.

Clive Edwards HD308

David Malcolm Mackie HD190

Mr Alex Walker HD0035

Mr Akbar Khan HD51

Gabriel Nwajiaku HD84

Mark Bates HD292

Adam Oakley HD16

Keith Radway, Proprietor Swindon Black Cabs

Ronald Scotford HD469

George Beare HD0118

Paul Beare HD0158

Antony Walton HD0461

Adrian Moore HD0355

Martyn Clark HD0495

Wayne Abraham HD0032

Mustafa Yilmaz HD0111

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Laval Carver HD0082

Soner Dogan HD0019

Simon Hillier HD0059

Paul Hillier

Yilli Burgaj, M4 Swindon Taxis

Bashkim Burgaj, M4 Swindon Taxis

David Pinner

Brian Edgell

George Cooper Bridges HD0058

In Swindon, Hackney Carriage Licensing is of a much higher standard than that in any of our neighbouring boroughs, in that it is required that operators provide a purpose built, wheelchair accessible taxi at considerable expense, resulting in much higher operating costs than in other towns.

In the current economic climate, work from the taxi rank alone can no longer support and justify the high costs of wheelchair accessible taxis. Most of these drivers are forced to rely on a steady income from pre-booked and contract work to support their incomes. The restrictions recently imposed have a considerable impact on their ability to achieve this and make the investment in newer replacement vehicles much less viable from a business perspective. This, in turn, would have a gradual knock-on effect where an older, less efficient fleet would be much less able to fulfil the range of services offered within the community, particularly to disabled passengers who often depend on a good, modern, accessible taxi service.

Many of the drivers listed above have bought a new taxi within the last 2 years. This represents an investment of around half a million pounds in the taxi trade. This level of financial investment requires special consideration and should not be dismissed lightly. Others are also directly affected, through the nature of their work, by the changes that have been imposed on the trade, understanding and supporting the proposal.

There has been a clear and visible increase in investment in the taxi trade in this time, to the benefit of both the traveling public and the town's image. This investment must be supported and encouraged to continue as it serves to remove older less environmentally efficient vehicles from service, improve pollution levels and raise passenger travel standards.

There has to be the right balance between the licensing requirements of the Council, the needs of the passengers and also the needs of the owners and drivers for the system to work well. Unfortunately, the recently voted changes have upset this balance to the cost of the taxi trade and threaten the earning capacity of those who have managed this balance to run businesses well while meeting the Council's demands. This is something the Committee must consider and address when deciding on the outcome of the proposal.

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Therefore, it is vital that we are allowed to continue to offer a viable alternative to private hire and maximise the earning potential of these specialised vehicles. I urge you and the Committee Members to favourably consider the proposal I Submitted, and prevent both the unfair restriction of use of these taxis and the financial consequences the current seating restrictions will have on the owners businesses.

I submit this to you for my proposal to be considered by the Licensing Committee at the meeting on 5 September.

Andrew Lucas
Badge No HD080

(4)

> On 31 Jul 2019, at 14:34, Clive Edwards <clivejedwards@yahoo.co.uk> wrote:

>>

>> I hope this email finds you well , it seems I only contact you when I feel something has gone drastically wrong within the Hackney trade , the last time being in 2016 when the trade imposed the ridiculous fare increase upon itself and the moves we made to return them to a more sustainable level .

>> I am very disappointed that I missed the opportunity to be involved in the decision making process that such a substantial change in our previously accepted working practices deserves regarding the use of factory fitted front seats .

>> On Thursday 25th July I took delivery of an 8 passenger seat Ford Procab which is still going through the licencing process . I bought this vehicle specifically to full fill a local authority contract commencing in September and clearly would not made this investment if I had any idea the use of these vehicles was under threat .

>> It must be understood I now have a loss making vehicle in my ownership and a driver facing increasing hardship in what is a very competitive trade .

>> It feels like the very people who have made the biggest investment to modernise the Hackney Carriage Trade are treated with with utter contempt !

>> Could you please forward to me the details of the consultation that took place , including the start and end dates , who were invited to participate and what their responses were .

>> I would also like to request the full details of what has been decided and my own personal situation regarding my new vehicle .

>> Thank you Clive Edwards .

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