

## Notice of meeting of

### Licensing & Regulatory Committee

**To:** Councillors Firth, Gillies (Chair), Horton, Looker and Moore (Vice-Chair)

**Date:** Friday, 3 July 2009

**Time:** 2.00 pm

**Venue:** Guildhall

## AGENDA

### 1. **Declarations of Interest**

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

### 2. **Minutes** (Pages 1 - 4)

To approve and sign the minutes of the meeting held on 1st May 2009.

### 3. **Public Participation**

At this point in the meeting, Members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is 5pm on Thursday 2 July 2009.

### 4. **Review of Hackney Carriage and Private Hire Vehicle Licence Condition in Respect of Tinted Windows.** (Pages 5 - 24)

This report follows a referral from the Environment Appeals Panel for this Committee to reassess the Hackney Carriage and Private Hire Vehicle Licence condition in respect of tinted windows.

**5. External Advertising on Hackney Carriage (Pages 25 - 38) Vehicles**

This report follows the successful appeal against the implementation of a single livery for Hackney Carriages. As a consequence, Officers have consulted with trade organisations on the subject of external advertising on vehicles and options of future policy are set out for Members consideration.

**6. Any other business which the Chair decides is urgent under the Local Government Act 1972.**

Democracy Officer:

Name: Laura Bootland

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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Laura Bootland Democracy Officer

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

City of York Council

Committee Minutes

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MEETING	LICENSING & REGULATORY COMMITTEE
DATE	1 MAY 2009
PRESENT	COUNCILLORS FIRTH, GILLIES (CHAIR), LOOKER, MOORE (VICE-CHAIR) AND DOUGLAS (SUBSTITUTE)
APOLOGIES	COUNCILLOR HORTON

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**11. DECLARATIONS OF INTEREST**

At this point Members were asked to declare any personal or prejudicial interests they had in the business on the agenda. Councillor Gillies declared a personal interest as a former hackney carriage proprietor.

**12. MINUTES**

RESOLVED: That the minutes of the meeting held on 6 March 2009 be approved and signed as a correct record by the Chair.

**13. PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme, on general issues within the remit of the Committee.

**14. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENCE CONDITIONS.**

Members received a report advising them of a recent statutory appeal against the Council's conditions for Hackney Carriage Vehicles in respect of emissions and livery.

The judge had concluded that the appeal should be dismissed in respect of the condition relating to emissions but was upheld in respect of the standard black livery. The taxi proprietor had subsequently submitted an appeal to the Crown Court in respect of the issue of emissions and the case was waiting to be heard.

During the appeal hearing in the Magistrates' Court, the District Judge had indicated that a vehicle age policy, in itself, was inappropriate. In the light of this it was officers' view that the emission condition should be rewritten and refer specifically to emission standards rather than using an age criteria to meet these standards. Members' approval was sought to consult on an amended condition in light of the appeal and the comments of the District Judge.

In view of the pending appeal, Members were asked to consider approving action whereby all hackney carriage vehicle licences issued on 1 June 2009 would be issued for six months only with the conditions relating to emissions deleted to allow time for the Crown Court appeal to be dealt with. The conditions regarding emissions and livery also applied to private hire vehicles, albeit the application dates differed.

Members expressed their disappointment that the Court had ruled against the standard livery but were pleased to note that they had approved the display of the city coat of arms decal on the front doors. Members were encouraged that Station Taxis had made the livery one of the conditions of a permit.

Consideration was given to the options detailed in the report:

Option 1 – Maintain the proposed conditions from 2 June 2009, i.e.

- (a) all new licenses issued or, any change of vehicle on an existing licence, the vehicle must be under 4 years old, and
- (b) no vehicle will be re-licensed after it has reached 8 years old.

Option 2 – Renew the hackney carriage vehicle licences for 6 months only deleting conditions relating to emissions and livery. Consult with the York Taxi Association and York Private Hire Association on the following conditions to replace the vehicle age restrictions in the future should the appeal be dismissed.

- (a) From 2 June 2011 all new licences issued or, any change of vehicle on an existing licence, the vehicle must be Euro 4 (or better) emission standards.
  - (b) From 1 June 2013 all licensed vehicles must meet Euro 4 (or better) emission standards
- Mirror the approved changes to hackney carriage vehicle licences to those relating to private hire vehicles.
  - Instruct officers to consult with the York Taxi Association on the subject of advertising on hackney carriages and report to a subsequent meeting of this committee.
  - Instruct officers to carry out further work on vehicle liveries and report back to a subsequent meeting of this committee.

Concerns were expressed that if hackney carriage vehicle licences were to be renewed for six months only, this would increase the administrative and financial burden for taxi proprietors and could cause further hardship during the current economic climate.

**RESOLVED:** That Option 2 be approved but with the licences being issued for a twelve month period and not a six month period.

REASONS: To ensure the licence condition is transparent in representing the Council's policy in respect of vehicle emissions contained in the Local Transport Plan.

To ensure consistency between both vehicle hire codes and reduce the threat of legal challenge.

To ensure the full benefit of vehicle identification is derived from the display of the side decal.

To ensure that all aspects of the introduction of a standard livery have been examined to inform any future strategy.

**15. REVIEW OF THE ISSUE OF NEW HACKNEY CARRIAGE VEHICLE LICENCES.**

Members received a report, which provided them with additional information on which to base a decision with respect to the issue of new Hackney Carriage Vehicle Licences. It contained information regarding a survey of un-met demand and the results of consultation with those waiting to be issued with a licence. This was in response to a request from the York Taxi Association to curtail the issue of any new Hackney Carriage Vehicle Licences due to the current economic climate.

Three members of the public had registered to speak on this item:

Mr Phillips, York Taxi Association, stated that he endorsed the findings in the Halcrow report and drew Members' attention to the impact that the current economic situation was having on business. He urged that the current policy be suspended.

Mr S Robinson, taxi driver, drew Members' attention to the reduction in drivers' income and the short waiting times for passengers. He stated that the service currently offered was more than adequate and urged Members to support Option 1 in the report.

Mr K Hatfield, Director of Station Taxis, informed Members that takings were considerably lower and drivers were working longer hours. He drew attention to particular issues in respect of the station, including the problems with the exit. He stated that there was no unmet demand at the station. Mr Hatfield asked Members to support Option 1 in the report.

Members sought advice from the Legal Officer regarding the implications of suspending the existing policy. Members were reminded that in May 2008 a policy had been agreed whereby there would be a managed release of licences over time. It had been agreed that the policy would be reviewed in three years. Although Members had the option to review policies at any time it should be noted that a decision to suspend the policy could be challenged in court. Members were advised to consider whether the absence of unmet demand identified by Halcrow in the survey taken together with other consultation, justified any change to the policy adopted

last year. The evidential base had to be robust. Technical advice may need to be sought regarding an appropriate evidential base.

Members expressed their concern at the impact that the current financial situation was having on the taxi trade and were keen to support the trade if possible. They were, however, mindful of the possibility of legal challenge if the policy were to be suspended and the financial implications of such a challenge.

Discussion took place as to whether it would be appropriate to seek further evidence to support a suspension of the current policy. Officers advised that a more rigorous study could be carried out but that this would incur financial costs.

Consideration was given to the three options detailed in the report:

Option 1 – suspend the current policy for 12 months (or some other time period as determined)

Option 2 – suspend the current policy indefinitely

Option 3 – continue with the current policy and issue 2 new vehicle licences on 1 July 2009 and thereafter at 6 monthly intervals until, and including, 1 January 2011 after which a further unmet demand survey be undertaken.

Discussion took place regarding possible amendments to Option 3. It was agreed that there was a need to continue with the existing arrangements at this time but that further evidence should be gathered prior to a decision being taken as to whether to continue with the existing policy in the longer term.

**RESOLVED:** That the current policy continue and that 2 new vehicle licenses be issued on 1 July 2009 but that officers be instructed to continue, in consultation with taxi proprietors and Halcrow, to review the situation and the evidence base, prior to the scheduled release of licences in January 2010.

**REASON:** To enable officers to manage the issue of licences and the trade to plan future business development.

Councillor I Gillies, Chair

[The meeting started at 2.00 pm and finished at 2.55 pm].



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## Licensing and Regulatory Committee

3<sup>rd</sup> July 2009

Report of the Director of Neighbourhood Services

### **REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENCE CONDITION IN RESPECT OF TINTED WINDOWS.**

#### **Summary**

1. This report follows a referral from the Environment Appeals Panel for this committee to reassess the hackney carriage and private hire vehicle licence condition in respect of tinted windows. The report sets out the history of the adoption of this condition, a summary of the appeal and the options available to members.

#### **Background**

2. The Council is the statutory authority responsible for the licensing and enforcement of hackney carriage and private hire legislation.
3. A licence is required for both the driver and the vehicle in respect of licensed operations. Vehicle licences are issued with a series of locally determined conditions with the aim of protecting the public. These conditions are reviewed from time to time in response to changes in legislation, technology and public expectations.
4. In November 2006 the Licensing and Regulatory Committee approved a new condition with respect to tinted glass. The condition reads:

The licensed vehicle shall be fitted with windscreen glass that has a light transmittance of 75% and all other window glass in the vehicle shall have a light transmittance not less than 70%. Any self-applied material shall be of the same standard and shall be approved by the taxi licensing office. This condition will not apply to tinted glazing fitted by the manufacturer to vehicles when new in respect of vehicles currently licensed by this Council.

5. Prior to the approval of this condition the York Taxi Association (YTA) and the York Private Hire Association (YPHA) were consulted and both were in agreement with these proposals. A copy of the report and approved minute is attached at Annex 1 & 2.

6. All hackney carriage proprietors were advised of this change of conditions by letter dated 31<sup>st</sup> January 2007. The changes were published in our newsletter of April 2007. The YTA and YPHA also published the information in their newsletters. All taxi licensing guidance notes and information on the website was updated.
7. Despite all the notification, proprietors were still bringing vehicles to test with over tinted glazing. It also became apparent that for various reasons, vehicles had been licensed which did not comply with this condition. This caused dispute and conflict both within the trade and with the council.
8. In order to resolve this situation the Head of Service produced a discussion document for licensing staff and the trade. The recommendation set out in the document, agreed internally and by both trade organisations, was that a pragmatic view be taken and those vehicles that had been licensed with non compliant glazing would be allowed to continue to operate but from that time the policy would be rigidly applied.
9. On 20<sup>th</sup> April 2009 the Environment Appeals Panel heard an appeal by a hackney carriage proprietor regarding officers decision to require the replacement of his rear window screen which was so tinted as to allow only 43% light transmittance as opposed to the 70% of the condition.

The Appeals Panel allowed the appeal and the decision letter is attached at Annex 3. Members will note that the reason given was the Panels acceptance that, taking into account the public safety considerations, the visibility through the vehicles rear window would be no better if glass were fitted that meets the Council's specifications due to the construction of the vehicle. The Panel also recommended that the matter of the tinted window condition be referred back to the Licensing and Regulatory Committee for reassessment in light of vehicles being sold, as standard, with tinted rear windows.

10. In order to manage the situation that has evolved following the appeal panels decision officers have applied the condition as already approved for all vehicles except estate cars as in the appeal. For estate cars, owners have been given until 31<sup>st</sup> July 09 to replace any rear screen glass that does not meet the approved condition. This period of grace allows members to re-examine the policy and provides any aggrieved vehicle owner the opportunity to appeal to the appeals panel.

### **Consultation**

11. Consultation has been undertaken with the York Taxi Association, the York Private Hire Association, the Independent Taxi Association and also the Police.



Independent Taxi Association (ITA)

12. This is a newly formed organisation. It is the policy of the council to recognise, for the purposes of consultation, any formally constituted group which represents 10% or more of hackney carriage owners, owner drivers or drivers. The ITA has a membership that represents 50 of the 173 licensed hackney carriages.

It is the view of the ITA that the rules on tinted windows should be withdrawn or considerably relaxed so that all but opaque glass which is factory fitted should be licensed. Their full response is attached at Annex 4.

York Taxi Association (YTA)

“The YTA committee unanimously feels that any manufacturers' standard tinting should be allowed on the rear window, not, as suggested, just the Peugeot 407SW. We feel that the Hackney trade are not being dealt with on a 'level playing field' as we note that many buses have far less light transmission than you suggest for our trade, due to full advertising on the whole of the bus bodywork. We would also like you to note that a Private Hire vehicle also displays curtains on the rear window. We feel that the Hackney trade is being singled out in this respect.”

York Private Hire Association (YPHA)

The YTPA consider that unless evidence can be provided to substantiate a safety issue the policy on tinted windows should be withdrawn. Their full response is attached at Annex 5

North Yorkshire Police

Comments were not available at the time of writing this report and will be reported at the meeting.

**Options**

13. Option 1 – Maintain the existing condition and deal with any appeals that ensue
14. Option 2 – Amend the condition in respect to the rear screen and any glazing that only covers the luggage compartment in estate cars permitting any manufactures tint providing it is not opaque.
15. Option 3 – Amend the condition with respect to all glazing.
16. Option 4 – Delete the condition

## Analysis

17. Members are reminded that when adopting this condition the following reasons were presented in the report as justification for the condition being adopted -
  - a. Enforcement officers need to see that the maximum number of passengers is not being exceeded
  - b. Police need to check if passengers are wearing a seat belt
  - c. Activities taking place in the vehicle cannot be viewed from outside posing a risk to both passengers and the driver
  - d. Vulnerable passengers will feel safer in a vehicle where they can be seen
  - e. In the event of an accident the emergency services can easily check if there are passengers inside
18. In addition visibility is required with respect to the enforcement of smoking restrictions and the misuse of handheld mobile phones.
19. This committee also reaffirmed the requirement on tinted glazing when considering conditions to be applied to the licensing of stretched limousines in March 2008 and also in January 2009 in respect of a request by a private hire operator to import hybrid environmentally friendly vehicles which could only be supplied with tinted glazing that did not meet our licence specification.
20. The fitting of tinted windows as standard to new vehicles is an increasing trend with some level of tint being above the existing levels set out in the existing licence condition. Having to replace glazing to an existing vehicle without compliant glazing is an additional cost to the vehicle owner if they wish to licence that vehicle. That said it is the owners choice whether to purchase the vehicle in the first place and incur the additional cost. Owners are however advising that the sourcing of vehicles with compliant glass is becoming increasing difficult.
21. Members are reminded that the use of vehicles as taxis or private hire vehicles (phv's) is completely different to that of a private car. Taxis and phv's provide a valuable public transport, servicing school and social services contracts, transporting visitors, residents - many elderly, business people and those requiring late night transport after experiencing York's night time economy.
22. Officers are of the opinion that, for the reasons set out above, clear visibility into the passenger compartment should be maintained. Officers are also aware of the appeal panels decision in relation to the rear screen of the appellants estate car in which they concluded that compliant glazing would not increase visibility into the passenger compartment due to the style of the window, the headrests and distance from the rear window. It is for this reason that a relaxation on the tinting of rear screen glazing and that which only overlooks the luggage compartment could be considered.

## **Corporate Strategy**

23. Taxis provide an essential public transport service often carrying vulnerable people who rely on their services. It is an essential requirement that passengers are safe, and feel safe, in using taxis contributing to York being a Safer City.

## **Implications**

24. **Financial** - None
25. **Human Resources (HR)** - None
26. **Equalities** - None
27. **Legal** –The Council is charged with a duty of ensuring that hackney carriage vehicles are suitable in terms of their public safety and appearance. Any condition imposed by a council on a hackney carriage licence must be considered reasonably necessary and must be proportionate. A person aggrieved by a condition attached to such a licence may appeal to the Magistrates Court
28. **Crime and Disorder** - None
29. **Information Technology (IT)** - None
30. **Property** - None
31. **Other** - None

## **Risk Management**

32. In coming to any decision on this matter the council can minimise risk by ensuring it takes all factors into consideration in coming to its decision. The decision should be reasonable in the light of the information available.

## **Recommendations**

33. Members are asked to approve option 2 and replace the existing vehicle licence condition on glazing for hackney carriages and private hire vehicles with the following:

The licensed vehicle shall be fitted with windscreen glass that has a light transmittance of 75% and all other window glass in the vehicle shall have a light transmittance not less than 70%. This is with the exception of that part of the rear window and any side window both or either adjacent to the luggage space in any estate type vehicle, which can be of any manufacturers tint providing it is not opaque. Any self-applied material shall be of the same standard and shall be approved by the taxi licensing office. This condition will not apply to tinted glazing fitted by

the manufacturer to vehicles when new in respect of vehicles currently licensed by this Council.

34. Reason – to provide for the safety of passengers and the driver and to enable effective enforcement of taxi licence conditions.

### Contact Details

**Author:**

Richard Haswell  
Head of Licensing and Safety

Neighbourhoods and  
Community Safety

Tel No.01904 551515

**Chief Officer Responsible for the report:**

Andy Hudson  
Assistant Director of Neighbourhoods and  
Community Safety

**Report Approved**

**Date** 14/4/09

### Specialist Implications Officer

Legal – Sandra Branigan

Tel No. 01904 551040

**Wards Affected:** *List wards or tick box to indicate all*

All

**For further information please contact the author of the report**

### Background Papers:

Report to Environment Appeal Committee 20<sup>th</sup> April 2009

### Annexes

- Annex 1 – Report to Licensing and Regulatory Committee November 2006
- Annex 2 – Approved Minute of Licensing and Regulatory Committee November 2006
- Annex 3 – Decision Letter of Environment Appeals Panel 20<sup>th</sup> April 09
- Annex 4 – Consultation Response Independent Taxi Association
- Annex 5 – Consultation response from the York Private Hire Association



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**Licensing and Regulatory Committee**3<sup>rd</sup> November 2006

Report of the Director of Neighbourhood Services

**Revision of Hackney Carriage and Private Hire Vehicle Conditions.****Summary**

1. This report requests members to consider two aspects of vehicle licence conditions which, due to advances in motor vehicle technology, are causing licensing difficulties. These are minimum engine size and the fitting of tinted windows. Members are requested to consider if a revision of conditions is necessary and make, if necessary, recommendation to full council to effect such revisions.

**Background**

2. The council issues licences for hackney carriages and private hire vehicles subject to prescribed conditions.
3. The conditions were last reviewed in 1999. It is intended to carry out a comprehensive review of all conditions in 2007 but there are two issues that need earlier consideration.
4. Recent years have seen considerable advancements in vehicle technology and design. This has resulted in the licensing office being requested to licence vehicles which are not covered by these conditions. Of particular and immediate concern are the restriction on engine size and the fitting of tinted windows
5. Our current conditions state that licensed vehicles must have a minimum engine capacity of 1250cc. There is no condition in respect of tinted windows.

**Engine Capacity**

6. Minimum engine capacity was a criteria the council had adopted to ensure that licensed vehicles were sufficiently powerful to fulfil the intended purpose. However this condition is increasingly creating anomalies in that many small diesel engines are producing more power than larger engined petrol equivalents.
7. Increasing demands for cleaner, more fuel efficient engines also mitigate against the logic for specifying a minimum engine size.

8. Officers consider that given engine development there is no reason to continue to prescribe a minimum size for new vehicles. As however we currently have no minimum age for vehicles, a complete abolition of a minimum engine size for all vehicles could result in an old vehicle being licensed with an inadequate engine or licensed when it had previously been refused on engine size. For this reason, and to encourage less polluting engines, officers are recommending that the minimum engine size should be removed for all vehicles fitted with a Euro IV (or better) emission rated engine. This would ensure that only new vehicles fitted with modern engines would benefit from this relaxation.

#### Tinted Windows

9. Although officers try to discourage the use of tinted glass for the reasons listed below they have no authority to prohibit the fitting of tinted glass to licensed taxis and private hire vehicles. This is giving increasing concern for the following public safety reasons:
  - a. Enforcement officers cannot see that the maximum number of passengers is not being exceeded
  - b. Police cannot check if passengers are wearing a seat belt
  - c. Activities taking place in the vehicle cannot be viewed from outside posing a risk to both passengers and the driver
  - d. Vulnerable passengers will feel safer in a vehicle where they can be seen
  - e. In the event of an accident the emergency services can easily check if there are passengers inside
10. The Motor Vehicles (Construction and Use Regulations)1986 prescribe a legal minimum percentage visibility of 75% in respect of windscreens and 70% for all vehicle glass within the drivers normal field of vision e.g. front doors. There are no requirements in relation to rear windows or rear side windows. People carriers in particular are often supplied by the manufacturer with heavily tinted rear glass.
11. It is also possible for drivers to purchase and fit laminates or films to the glass to achieve the same effect.
12. Officers are proposing that a new condition be introduced that will restrict the use of tinted glass in licensed vehicles to a minimum of 75% light transmittance for windscreens and a minimum of 70% light transmittance for all other windows. Any self applied film will be required to meet the same qualifying conditions.
13. The condition as regards factory fitted glass will not be applied retrospectively to existing licensed vehicles.

#### **Consultation**

14. The York Taxi Association and the York Private Hire Association have been consulted on these issues and have both informally stated they are in



agreement with officers proposals. Their written comments will be available at the meeting.

### **Options**

15. Members have the following options

To accept the officer recommendations as set out in paragraphs 8 and 12 of this report

To amend either or both of those recommendations

To make no changes to the existing conditions

### **Analysis**

16. The reasoning and analysis of the proposals has been set out in previous paragraphs of the report.

### **Corporate Priorities**

17. The ability to license vehicles with smaller, less polluting engines contributes to the priority to increase the use of public and other environmentally friendly modes of transport.

### **Implications**

- 18.

- **Financial** - None
- **Human Resources (HR)** - None
- **Equalities** -None
- **Legal** - Clear, enforceable standards should be set which are reasonable in relation to current circumstances.
- **Crime and Disorder** – The restriction on the used of tinted windows in licensed taxis and private hire vehicles has the potential to reduce crime and disorder
- **Information Technology (IT)** - None
- **Property** - None
- **Other** – None

## Risk Management

- 19 In compliance with the Councils risk management strategy any decision made which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.
20. Measured in terms of impact and likelihood, the risk score has been assessed at less than 16. This means that at this point the risks need only to be monitored, as they do not provide a real threat to the objectives of this report

## Recommendations

- 21 It is recommended that this committee recommends to council that the licence conditions in respect to hackney carriages and private hire vehicles be amended to include the following conditions:
  - a) The licensed vehicle shall have a minimum engine capacity of 1250cc except for vehicles fitted with an engine rated with a Euro IV (or better) emission standard.
  - b) The licensed vehicle shall be fitted with windscreen glass that has a light transmittance of 75% and all other window glass in the vehicle shall have a light transmittance not less than 70%. Any self applied material shall be of the same standard and shall be approved by the taxi licensing office, and

That condition b) will not apply to tinted glazing fitted by the manufacturer to vehicles when new in respect of vehicles currently licensed by this council .

Reason: to update standard vehicle licensing conditions to match current developments in vehicle specifications .

## Contact Details

### Author:

Richard Haswell  
Head of Licensing and  
Regulation  
Neighbourhood Services  
Tel No.01904 551515

### Chief Officer Responsible for the report:

Andy Hudson  
Assistant Director ( Neighbourhoods)

Report Approved  *yes*

Date 17/10/06

Wards Affected: *List wards or tick box to indicate all*

All  *yes*

For further information please contact the author of the report

## Background Papers:

Local Government ( Miscellaneous Provisions)Act 1976

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MEETING	LICENSING & REGULATORY COMMITTEE
DATE	3 NOVEMBER 2006
PRESENT	COUNCILLORS NIMMO (CHAIR), BARTLETT (VICE-CHAIR), HORTON, B WATSON AND I WAUDBY

#### 10. DECLARATIONS OF INTEREST

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda. No Members declared any interests.

#### 11. MINUTES

RESOLVED: That the minutes of the meeting held on 1 September 2006 be approved and signed as a correct record.

#### 12. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the Council's Public Participation Scheme.

#### 13. VARIATIONS TO TAXI LICENSING CONDITIONS

Members were asked to consider a report concerning two aspects of vehicle licence conditions, which due to advances in motor vehicle technology, are causing licensing difficulties. These were minimum engine size and the fitting of tinted windows. Members were requested to consider if a revision of conditions was necessary and make, if necessary, recommendation to Full Council to effect such revisions.

Members discussed the issues surrounding environmentally unfriendly vehicles being used as hackney carriages and private hire vehicles and said that the suggested revision to minimum engine size was very sensible.

Members discussed how the proposed revisions could affect private hire limousines with totally blacked out windows. Officers advised that the council would be considering the licensing of limousines in the future but were waiting for details of a scheme to be introduced by the greater Manchester Authorities who have done considerable research on this issue

RESOLVED: that the licence conditions in respect of Hackney Carriages and Private Hire vehicles be amended to include the following:-

- a) The licensed vehicle shall have a minimum engine capacity of 1250cc except for vehicles fitted with an engine rated with a Euro IV (or better) emission standard

- b) The licensed vehicle shall be fitted with windscreen glass that has a light transmittance of 75% and all other window glass in the vehicle shall have a light transmittance not less than 70%. Any self applied material shall be of the same standard and shall be approved by the taxi licensing office, and

That condition b) will not apply to tinted glazing fitted by the manufacturer to vehicles when new in respect of vehicles currently licensed to the council.

REASON: to update standard vehicle licensing conditions to match current developments in vehicle specifications.

G Nimmo  
Chair of Advisory Panel

The meeting started at 3.10 pm and finished at 3.20 pm.

**PERSONAL – ADDRESSEE ONLY**

Wednesday 22 April 2009

Dear Mr,

**ENVIRONMENT APPEALS PANEL**

I write to inform you of the decision of the Environment Appeals Panel that heard your appeal on Monday 20 April 2009 in respect of the Officers decision to enforce the hackney carriage vehicle licence condition with respect of tinted glazing to the rear of your Peugeot estate.

The Panel decided to uphold your appeal. Before making their decision the Panel considered all the facts of the case which were presented, including the following:

1. The information provided by the Head of Licensing as set out in the report and annexes that were sent to you in an Agenda on 9 April 2009.
2. The information and supporting letters submitted by yourself.
3. The representations made by the Head of Licensing including the fact that the rear screen of your vehicle allows 43% of light through while the licence condition states it should allow 70%. He advised that the condition is similar to that of other local authorities.
4. Representations made by you including the fact that the window was fitted as standard to your vehicle and a considerable cost would be incurred by you to change the window and that your vehicle is constructed in such a way that vision through the rear window into the cab of the car would still be obscured even if the glass was not tinted.
5. Having regard to 1 - 4 above, the Panel agreed to uphold your appeal. The reason for upholding your appeal was the Panels acceptance that, taking into account the public safety considerations, the visibility through your vehicles rear window would be no better if glass were fitted that meets the Council's specifications due to the construction of the vehicle. The Panel also recommended that the matter of the tinted window condition be referred back to the Licensing and Regulatory Committee for reassessment in light of vehicles being sold as standard with tinted rear windows.

If you require any further information, please contact Richard Haswell 01904 551515.

Thank you for attending the appeal.

Yours sincerely,

Laura Bootland  
Democracy Officer  
Democracy Support Group  
(01904) 552062

**Independent Taxi Association**

**Tinted Windows.**

We were surprised to read that this had been introduced “in response to requests from the trade”. We do not believe that all the trade had been consulted, and the implications and costs were not properly examined by those wishing to introduce this restriction.

We consider that the rules on tinted windows should be withdrawn or considerably relaxed so that all but opaque glass which is factory fitted should be licensed. In support of this we have the following points.

1. Cars, MPV's and minibuses are not hard to find new and used without tinted glass. Many vehicles have this as standard, particularly black vehicles to keep occupants cool.
2. Vehicles with tinted glass are legal and approved by V.O.S.A. The council's justification for their rule is confirming the wearing of seatbelts. However, this is the responsibility of the adult passengers and not the driver. In York taxis/PHV's will have several notices reminding passengers of their legal duty to wear belts. If the police need to see whether rear occupants are seat belted, then why are tinted windows allowed in private cars?
3. Regarding the carrying of more passengers than licensed for:

We have never heard of this as a problem, nor do we believe that a driver would attempt to overload his taxi and risk his license and insurance.

I note that the buses in York not only have tinted windows (Park and Ride and FTR's) but some have advertising film over the windows. I am sure that the police would have no chance of determining if the bus driver had overloaded his bus with passengers, and this is much easier to do with 50 passengers rather than 4 in a taxi.

4. When sourcing a vehicle, the glass is not marked with its transmittance value, so we have to purchase hoping it will pass. Only once submitted for inspection do we know if the glass will pass. If the glass doesn't pass the current council rules, then we are faced with several days of work and a re-test and £700-1,000 of extra expense to change the glass (if available)

Currently the whole situation is confusing and unsatisfactory and leads to considerable difficulty and expense for vehicle owners.

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York Private Hire Association

The general feeling amongst members of YPHA is that the tinted window ruling does not work and should be either removed altogether or radically changed. All members spoken to felt there was no benefit of the ruling, they felt that on grounds of enforcement the driver could be clearly seen through the front windscreen or front door windows as these have by law got to transmit at least 70% light (75% for windscreens), it was felt that modern car designs prevent little if no view from the rear regardless of the level of tint fitted.

On grounds of safety it was felt there was no evidence to support current legislation, particularly as all tinted windows fitted as standard to vehicles transmit some light and therefore passengers are always visible. Have there been any cases where tinted windows have prevented a crime being detected in a licensed vehicle?

The majority of drivers spoken to did feel that aftermarket tinting and privacy glass (as fitted to limo's) should not be permitted.

It is difficult to suggest an easy policy on this Dick, with new cars it could be accepted that the tint provided by the manufacturer is acceptable but this would not work on used cars, also if you lower the current requirement it still leaves drivers unsure of what is and is not acceptable. The biggest problem is that most cars now come with tinted windows as standard, and quite often clear windows are not an option, this is then compounded by the lack of information on the level of tint in a window. Unless manufacturers are required to give this info when selling a vehicle this situation will not improve.

As you know the YPHA supported the initial proposal on tinted windows proposed by you on the grounds of passenger safety, however since the introduction of this policy we feel that there is no evidence to support this and unless evidence can be provided to substantiate the safety issue then we feel removal of this policy would be the best course of action.

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**Licensing and Regulatory Committee****3<sup>rd</sup> July 2009**

Report of the Director of Neighbourhood Services

**EXTERNAL ADVERTISING ON HACKNEY CARRIAGE VEHICLES****Summary**

1. This report follows the advice given to members of this committee at their previous meeting on 1<sup>st</sup> May 2009 regarding the successful appeal against the implementation of a single livery for hackney carriages. As a consequence of that decision officers have consulted with trade organisations on the subject of external advertising on vehicles and options of future policy are set out for members consideration.

**Background**

2. The Council is the statutory authority responsible for the licensing and enforcement of hackney carriage and private hire legislation.
3. A licence is required for both the driver and the vehicle in respect to a hackney carriage operation. Vehicle licences are issued with a series of locally determined conditions with the aim of protecting the public.
4. The current vehicle licence conditions state that no advertising shall be allowed without the consent of the council. The policy guidelines to implement that condition are attached as Annex 1.
5. This condition would have been replaced by the adoption of the standard black livery where no advertising would be permitted. As members are aware the requirement for black livery was appealed against successfully in the magistrates court but the requirement to display the city crest decal on the front door panels upheld. As a consequence of this members are invited to review their policy on advertising on hackney carriages .
6. The logic following the requirement to display the decal is that it needs to be clearly visible and that has impact on the display of external advertising. This is a similar requirement to private hire vehicles which are required to display side plates on the rear doors of the vehicle. In that case the policy for private hire vehicle advertising is that it be limited to bonnet and boot.

## Consultation

### Independent Taxi Association (ITA)

This is a newly formed organisation. It is the policy of the council to recognise, for the purposes of consultation, any formally constituted group which represents 10% or more of hackney carriage owners, owner drivers or drivers. The ITA has a membership that represents 50 of the 173 licensed hackney carriages.

The ITA response is as follows :

“The view of the ITA members regarding advertising on licence hackney carriages is that it seems more beneficial as a "full vehicle wrap" with the exception of the 2 front doors. And after talking to some of the companies who provide this “full wrap” service, the York logo can be super-imposed onto the wrapping as long as there is no copyright infringement. A full vehicle wrap, in our opinion, seems more aesthetically pleasing rather than simply placing the advertising on the front and back of the vehicle”

### York Taxi Association (YTA)

“As a result of a recent YTA meeting, the committee voted unanimously to display the City coat of arms decal on the front doors of licensed vehicles and to keep this area free from any other advertising. We then voted unanimously for complete advertising on the rest of the vehicle.

We have taken advice from the National Taxi Association who inform us that under the Miscellaneous Provisions Act 1976, Sections 46 & 47, we are fully entitled to do so.

I would like to note that the decal on coloured cars (i.e. not black) has a poor visual effect; the decal being displayed on a black background. Whether therefore alternative signs could be supplied without the background for those vehicles who remain coloured other than black.”

## Options

7. Option 1 – Maintain the existing condition permitting advertising anywhere on the hackney carriage
8. Option 2 – Restrict advertising in the same way as for private hire vehicles ie no advertising the entire side of the vehicle but permitted on the front and rear.
9. Option 3 – Prohibit advertising on the front door panels only
10. Option 4 – Prohibit advertising anywhere on the external of the vehicle
11. Should Members approve any advertising then it should be subject to the same approval procedure and restraint as set out in the policy at Annex 1

## **Analysis**

12. Advertising provides an additional source of income for some taxi vehicle proprietors. At the present time there is only a small minority of vehicles that have advertising on the bodywork. This may be as a result of the movement to a standard livery and a lack of certainty over the current conditions.
13. In considering option 1, it is clear from the photograph at Annex 2 that any advertising on the same door panel as the decal would more than likely render it unreadable, a view that seems to be shared by the trade organisations. The decal also affects the quality of the advertising.
14. Option 2 offers the same requirement as has been applied to private hire vehicles for many years ie keeping the whole of the side of the vehicle clear of advertising. This will allow full prominence to be given to the decal whilst still permitting advertising on the front and rear of the vehicle. Photograph at Annex 3
15. The York Taxi Association favour an approach where advertising is permitted anywhere other than on the same door as the decal as indicated in option 3. If members agreed this approach then it would be rational to amend the private hire conditions in the same way. It should be noted that the private hire conditions have been in existence for many years without problem. The photograph at Annex 4 illustrates this option
16. Finally as option 4 Members may favour an approach that prohibits any form of advertising. Such an approach has been adopted by some local authorities particularly those where a single livery has been adopted. Such an approach in the absence of a standard livery could be difficult to justify particularly if private hire vehicles were permitted to continue with external advertising.
17. In considering any policy change members should be aware that advertising is often supplied for a fixed period of time ie. annual contracts, and the application of any new policy, if made retrospective, could have financial consequences to vehicle proprietors.

## **Corporate Strategy**

18. Taxis provide an essential public transport service often carrying vulnerable people who rely on their services. It is an essential requirement that passengers are safe, and feel safe in using taxis, contributing to York being a Safer City.

## **Implications**

19. **Financial** - None
20. **Human Resources (HR)** - None
21. **Equalities** - None
22. **Legal** - The Council is charged with a duty of ensuring that hackney carriage vehicles are suitable in terms of their safety and appearance. Any condition imposed by the council on a hackney carriage vehicle licence must be considered reasonably necessary and must be proportionate. A person aggrieved by a condition attached to such a licence may appeal to the Magistrates Court.
23. **Crime and Disorder** - None
24. **Information Technology (IT)** - None
25. **Property** - None
26. **Other** – None

## **Risk Management**

27. In coming to any decision on this matter the council can minimise risk by ensuring it takes all factors into consideration in coming to its decision. The decision should be reasonable in the light of the information available.

## **Recommendations**

28. Members are asked to approve option 2 ie to prohibit advertising on the sides of hackney carriages. This shall not be applied to vehicles already displaying advertising on the vehicle side until the vehicle or advertising is changed.
29. Reason – To ensure that full prominence is given to the coat of arms decal which aids identification of the vehicle as a City of York licensed hackney carriage.

**Contact Details**

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Andy Hudson  
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**Report Approved**

**Date** 17/6/09

**Specialist Implications Officer**

Legal – Sandra Branigan

Tel No. 01904 551044

**Wards Affected:** *List wards or tick box to indicate all*

**All**

**For further information please contact the author of the report**

**Background Papers:**

Report to Licensing and Regulatory Committee 1<sup>st</sup> May 2009

**Annexes**

Annex 1 – Existing policy in relation to approval of advertising on hackney carriage and private hire vehicles

Annex 2 – Photograph showing full side advertising

Annex 3 – Photograph showing no advertising on vehicle side

Annex 4 – Photograph showing no advertising on front door only

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## **CONDITIONS UNDER WHICH ADVERTISING ON HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES WILL BE PERMITTED**

Where licence conditions permit, vehicle licence holders may place advertising material in or on their vehicle in accordance with their licence conditions. Approval must first be sought from the Taxi Licensing Office.

**N.B. It is important that hackney carriage vehicle proprietors check their vehicle licence carefully for any condition relating to vehicle livery and advertising.**

### 1) **TYPE OF ADVERTISING PERMITTED**

- a) No advertising will be permitted which causes public offence.
- b) No vehicle shall display external advertising from more than one advertiser.
- c) Advertising material must comply with all aspects of Advertising Standards legislation and the published guidelines of the Advertising Standards Authority.
- d) No vehicle shall display advertising relating to: -
  - Alcohol
  - Cigarettes or other tobacco products
  - Any political or religious organisation or campaign
- e) No advertising material shall cause the vehicle to break Road Traffic Legislation or render the vehicle hazardous to its driver, passengers or other road users.
- f) All advertising artwork must be to a high standard.
- g) Artwork must be durable to the rigours of display on a vehicle in daily use.

### 2) **ADVERTISING DISPLAYED ON VEHICLE BODYWORK**

Private Hire vehicles may display advertising material mounted or painted on the bonnet and boot of the vehicle. The doors must remain free of advertising in order to give sufficient prominence to the Operator's details. **The advertising must be inspected by the Taxi Licensing Office prior to the vehicle going into service.**

### 3) **ADVERTISING IN THE FORM OF REAR WINDOW STICKERS**

One rear window sticker may be permitted per vehicle providing it does not obscure the driver's visibility. No other advertising window stickers may be displayed. Vehicle dealer stickers will be considered as advertising stickers therefore no other sticker may be displayed.

### 4) **ADVERTISING INTERNALLY WITHIN THE VEHICLE**

Hackney Carriages and Private Hire vehicles may display advertising within their vehicle in the form of a panel displayed in a position visible to passengers but not interfering with the driver's vision or the passenger's ability to see out of the windows.

### 5) **COMPLIANCE WITH THESE CONDITIONS**

Proprietors of vehicles displaying advertising without approval contravene the Vehicle Licence Conditions and would be liable to a fine of up to £500 on conviction. The vehicle licence could also be suspended until such time as the material has been removed from the vehicle (subject to the right of appeal to the Magistrates' Court and/or the Councils Appeals Sub Committee). A vehicle licence may also be suspended if artwork is incomplete due to bodywork repairs.

The Taxi Licensing Office will exercise this authority in the interests of the citizens and visitors to York.

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