

**THE LICENSING AND HEALTH AND SAFETY
ENFORCEMENT COMMITTEE**

THURSDAY 1 MARCH 2012 AT 7.30 PM

COUNCIL CHAMBER, CIVIC CENTRE, HEMEL HEMPSTEAD

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Cllr Bhinder
Cllr Conway
Cllr Douris
Cllr Fantham

Cllr Lawson (Chairman)
Cllr Link
Cllr Peter
Cllr Mrs Rance

Cllr Mrs Green (Vice-Chairman)
Cllr Hearn
Cllr R Hollinghurst

Cllr Ryan
Cllr Sutton
Cllr Taylor
Cllr Whitman

For further information, please contact Pauline Bowles, Members Support Officer on Tel: 01442 228221, or Email: Pauline.bowles@dacorum.gov.uk Information about the Council can be found on our website: www.dacorum.gov.uk

PART I

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1. INTRODUCTION

2. MINUTES

To confirm the minutes of the meeting held on 31 January 2012 (Appendix A)

3. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

4. DECLARATIONS OF INTEREST

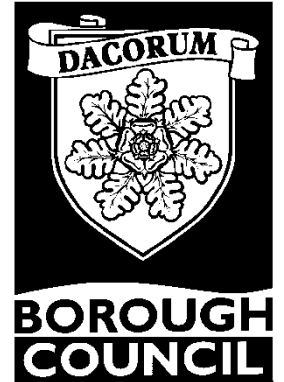
To receive any declarations of interest

5. PUBLIC PARTICIPATION

An opportunity for members of the public to make statements and ask questions in accordance with the rules on Public Participation

AGENDA ITEM:6

SUMMARY



Report for:	Licensing Health & Safety and Enforcement Committee
Date of meeting:	1 March 2012
PART:	1
If Part II, reason:	

Title of report:	Types of vehicles to be licensed as Hackney Carriages
Contact:	Kathryn Ashton, Environmental Health, Team Leader, Regulatory Services
Purpose of report:	To consider the categories of vehicles to be licensed as Hackney carriage vehicles and in particular the use of 'grandfather rights' for those licences obtained prior to 2004, known as 'Golden Plates'.
Recommendations:	That the Licensing and Health and Safety Enforcement Committee consider the recommendation within the report and agree for this to be subject to consultation with the licensed hackney carriage trade..
Financial Implications	n/a
General Policies:	Members of the Licensing Sub Committee act in a quasi-judicial capacity under delegated powers to determine licensing matters on behalf of the Council.
Key Policies:	All of the Council's key policies are relevant to its licensing function. Principal issues include: supporting the local economy; encouraging the provision of leisure facilities for people in Dacorum particularly where measures are taken to combat social exclusion, whilst at the same time minimising the impact (particularly crime disorder and noise) of licensable activities on the environment.

1.0 Background

- 1.1 Hackney Carriage and Private Hire vehicles have specific roles to play in an Integrated transport system. They are able to provide services in situations where public transport is either not available, for example in rural areas, or for those with mobility difficulties.
- 1.2 The aim of licensing the Hackney Carriage and Private Hire vehicle trade is, Primarily, to protect the public and to ensure that they have reasonable access to Hackney Carriage and Private Hire services because of the part they play in the provision of local transport. It is important that the Authority's Hackney Carriage and Private Hire Licensing powers are used to ensure that licensed vehicles in Dacorum are safe, comfortable, properly insured and available where and when required
- 1.3 The Council has the responsibility for licensing Hackney Carriage and Private Hire Vehicles and Drivers and Operators within the Borough of Dacorum. It has traditionally exercised these functions through a number of different policies and procedures that have been developed over a significant number of years. A comprehensive review of these Policies and Procedures is currently being undertaken alongside a review of operational procedures within the Licensing Section. The review of policies and procedures has regard to latest Government Guidance and best practice in terms of Hackney Carriage and Private Hire licensing.
- 1.4 In 2004 Dacorum Borough Council introduced a policy in respect of Hackney Carriage Vehicles which stated that all new vehicles licensed as Hackney Carriages shall be purpose built and fully wheelchair accessible. There was an exemption for those persons who already held a Hackney Carriage Vehicle Licence who would be entitled to 'grandfather rights'. This enabled those licence holders to continue to licence their saloon vehicle as a hackney carriage provided there was no lapse in the licence. The result of this is that there is a mixed fleet of saloon vehicles and wheelchair accessible vehicles
- 1.5 The 2004 policy in respect of the requirement for wheelchair accessible vehicles has recently been reviewed as evidence had been obtained, through Officer inspections, that some of the vehicles licensed as hackney carriages were in fact not suitable to carry wheelchair users safely. This was addressed by the decision made at the Committee meeting on 31 January 2012 with the following:

For all new licences granted in respect of Hackney Carriage Vehicles:

A Hackney Carriage vehicle will only be granted in respect of a vehicle which must be safely accessible to a disabled person in their wheelchair and must be able to carry the person in safety and in reasonable comfort whilst remaining within their wheelchair. The vehicle must comply with British and European vehicle regulations approved to the standard of M1 whole vehicle type approval, (ECWVA), and unaltered since the type approval.

For those vehicles which are currently licensed and have been inspected that cannot demonstrate that they meet European Whole Vehicle Type Approval:

The Vehicle must successfully pass an individual type approval test, (IVA), which must include testing of all fixings, mountings, ramps, straps and seatbelts which have been incorporated as part of the adaptation of the vehicle to carry wheelchair users. A successful IVA must be obtained by 31st July 2012 otherwise the Council will cease to licence the vehicle.

For those vehicles that are currently licensed and have been inspected that have not been adapted appropriately and able to safely carry a wheelchair user:

The vehicle will continue to be licensed for a minimum of 6 months or until the expiry of its licensing plate. After such time unless it can be demonstrated by the appropriate paperwork that the vehicle meets ECWVA or has the appropriate IVA which must include testing of all fixings, mountings, ramps, straps and seatbelts which have been incorporated as part of the adaptation of the vehicle to carry wheelchair users, then it will cease to be licensed. Until such time as it is demonstrated that the vehicle is compliant then it will not be licensed to carry wheelchair users.

That the policy in respect of seating arrangements requiring unimpeded access and egress without the need to tilt or fold a seat which has resulted in seating be removed and thus potentially invalidating the type approval, be amended so that no seats will be removed from MPV's or Hackney Carriage vehicles and vehicles will be licensed for the number of seats as per manufacture. However a rear handle must be installed for emergency egress from the vehicle to allow passengers in the rear row of seating to be able to exit safely.

- 1.6 There still remains the issue of 'grandfather rights' for existing saloon hackney carriages and these have become known as 'Golden Plates'.

2.0 Grandfather rights and Golden Plates

- 2.1 The issuing of grandfather rights from 2004 is considered to be fair and appropriate to ensure a mixed fleet continues which is a recommendation by the Department of Transport in order to meet the needs of all fare paying passengers.
- 2.2 However the way in which this has been operated within Dacorum has meant that these hackney carriage licences, (plates), have become extremely valuable and thus known as 'Golden Plates'. In some cases these plates have been sold to another party without a vehicle for large sums of money. The way in which they have been operated is summarised as follows:

- 2.2.1 Those persons who have continued to license their vehicle as a hackney carriage since 2004 and have continued to use their vehicle or upgraded to a new/newer saloon under the 'golden plate';
 - 2.2.2 Those persons who have continued to license their vehicle as a hackney carriage and have transferred the vehicle and plate to a third party;
 - 2.2.3 Those persons who have continued with the licence but do not have a saloon vehicle or are no longer a Hackney Carriage Driver, and have transferred the 'Golden Plate' a third party; and
 - 2.2.4 Those persons who no longer have a saloon vehicle whether or not still driving as a Hackney or Private Hire Driver, although still continue keeping the licensed plate which is currently held with the Council.
- 2.3 The 'grandfather rights' agreed in 2004 should clearly apply to 2.2.1 and 2.2.2, however it is considered that such exemption may not have intended to cover 2.2.3 and 2.2.4.
- 2.4 Whilst it has already been stated that a mixed fleet of Hackney Carriages is appropriate, the use of the exemption to the policy within Dacorum has resulted in a fleet of 244 saloon hackney carriages and 65 wheelchair accessible hackney carriages, of which it has recently been identified that at least 12 are unsuitable to safely carry wheelchair users.

3.0 Recommendations

- 3.1 It is considered that the exemption to the amended policy for 'grandfather rights' in respect of continuing to licence a saloon vehicle as a hackney carriage should be clarified. It is recommended that the exemption should apply to those persons genuinely continuing to license their vehicle and use it for hire and reward purposes and also those persons who decide to transfer their plate and vehicle to a third party. This would include drivers who may have retired or cannot drive for some other reason, medical etc. It is not considered that the exemption should apply to the matters outlined in 2.2.3 and 2.2.4 above.

4.0 Options available to the Committee

- 4.1 To agree the recommendations in 3.1 above;
- 4.2 To agree the recommendations in 3.1 above with any necessary modifications; or
- 4.3 To make no changes to existing policy.

7. EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the item in Part II of the Agenda for the meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to:

DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE

31 JANUARY 2012

Present –

MEMBERS:

Councillor Mrs Green (Chairman), Bhinder, Conway, Fantham, Hearn, R Hollinghurst, Link, Peter, Mrs Rance, Ryan, Sutton and Whitman.

OFFICERS:

B Lisgarten Barrister
K Ashton Team Leader, Environmental Health
R Mabbitt Licensing Enforcement Officer
J Doyle Group Manager, Democratic Services
T Coston Member Support Officer, Democratic Services

Other Persons Present:

John McIlvaney & Mohammed Awais Ahmed

The meeting began at 7:30 pm

1. INTRODUCTIONS

The Chairman welcomed everyone to the meeting and informed those present she would introduce the Committee and officers when it is suitable. The Chairman then ensured that everyone had copies of additional recommendations and photographs circulated at the meeting.

2. APOLOGIES FOR ABSENCE

There were apologies of absence from Councillor Lawson, Douris & Taylor.

3. DECLARATIONS OF INTERESTS

No interests were declared.

4. PUBLIC PARTICIPATION

Representations were received from John McIlvaney & Mohammed Awais Ahmed on behalf of local taxi community.

5. RESPONSES FOLLOWING CONSULTATION PROCESS IN RESPECT OF:

- **WHEELCHAIR ACCESSIBLE VEHICLES SEATING ARRANGEMENTS**
- **CRITERIA FOR LICENSING HACKNEY CARRIAGE VEHICLES**

Kathryn Ashton, Team Leader of Environmental Health, introduced the item by outlining the three sets of vehicles and accessibility by disabled groups. She explained that the items which had been subject to consultation.

The first item covered a review of the previous policy in respect of seating arrangements where the Council had required that every fare paying passenger must have unimpeded access and egress in respect of every licensed vehicle without the need to tilt or fold a seat. This had meant that several drivers had removed seats from vehicle to ensure this policy could be complied with.

Kathryn Ashton reported that complaints had been received from members of the public and the trade that this was causing problems with passengers falling between gaps where seats had previously been. Kathryn Ashton explained that these vehicles had been manufactured to carry the appropriate number of persons without removal of seats and it was recommended to the Committee that this policy be amended so seats would no longer be removed and the vehicle would be licensed for the numbers of passengers that seating allowed for. It was also recommended that an emergency handle be installed to the rear of the vehicle which would enable egress from the licensed vehicle in an emergency where the seat in front could not be tilted or folded. Kathryn Ashton also reminded the Committee that by requiring removal of seats could potentially invalidate any type approval that had been issued to vehicle.

The second item of the consultation and consideration was in respect of the policy which required that all new vehicles licensed since 2004 shall be wheelchair accessible. Currently the vehicles appeared to fall into three categories:-

- those that have M1 European Whole Vehicle Type Approval, (EWVTA);
- those that appear to be compliant and possibly EWVTA, but have no proof of approval; and
- those that are not compliant and not safe to carry wheelchair users in their current configuration.

The Investigation found that there were 23 vehicles that were compliant to EWVTA, 20 vehicles that appear compliant and possibly EWVTA 12 vehicles that were not compliant.

The officers produced photographs of the three different types and recommendations arising from results of the investigation and consultation.

Representations were then made by the two members of the local taxi drivers.

John McIlvaney

Mr McIlvaney made reference to his submission included in the report to the committee. In addition, he stressed the following points:

- The advantages of rear loading which he considered sensible and acceptable particularly on the narrow roads in Dacorum where parked cars make the use of side doors problematic. He felt Dacorum Borough Council licensing were against rear loading.
- What's involved in M1 Van conversion and testing? Alternative installation of tracking can be carried out in local garages, which in his opinion has the same safety record as the M1 whole conversion.
- He pointed out that individual conversion to rear access and bench type seats are used and acceptable to many families with disabilities.

Kathryn Ashton replied that DBC Licensing were not against rear loading for wheelchair access but were against disabled passengers being restricted behind rear seats in the event of a collision with no other option of egress from the vehicle.

Mohammed Awais Ahmed

Mr Ahmed addressed the Committee and raised the following issues;

- The manufacturers of MPV's he had consulted were shocked at Dacorum Borough Councils requirements.
- Dacorum Borough Council's policy differs from other surrounding boroughs.
- The different licensing conditions meant that DBC drivers were unable to bid for cross county contracts.
- In his opinion, the gaps caused by removing seats could be dangerous for passengers.
- The alterations to the vehicle meant it was not covered for personal use by insurance companies.

Kathryn Ashton responded that she felt the recommendations already explained and presented to the Committee addressed these issues.

The Chairman then asked the committee for any comments or questions;

Councillor Fantham asked if any instructions had been provided since 2004 regarding wheelchair conversions.

Kathryn Ashton could not confirm if instructions were given in 2004 but the Policy stated that all Hackney Carriage Vehicles were required to be wheelchair accessible.

Councillor Whitman referred to the photographs of vehicles with unacceptable alterations.

Councillor Rance enquired who inspects the vehicles once converted and what qualifications were needed.

Kathryn Ashton responded that the vehicles were inspected and certified by using the three legal mechanisms for the type approval of passenger car/taxis as set out in paragraph 2.5 in the report to the Committee. It was the driver's responsibility to prove that the vehicle had been tested and approved.

The Chairman then moved the recommendations circulated by the officers.

Councillor Rance proposed that in recommendation 2 - 'shall' to be replaced by 'must'. She also proposed that in recommendation 3, 4th line - 'shall' to be replaced by 'must'. In addition she suggested that in the last line 'shall' is replaced by 'will'.

At that point, Councillor Fantham asked why 31st July 2012 was the cut off date for conversion to be completed and approved. He felt taxi drivers should be given longer to comply.

Councillor Green suggested that these vehicles had already been converted but could not demonstrate that they met the required standard and 6 months was ample time to gain approval if they wished to carry wheelchair users.

Agreed:

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4. That the policy in respect of seating arrangements requiring unimpeded access and egress without the need to tilt or fold a seat which has resulted in seating be removed and thus potentially invalidating the type approval, be amended so that no seats will be removed from MPV's or Hackney Carriage vehicles and vehicles will be licensed for the number of seats as per manufacture. However a rear handle must be installed for emergency egress from the vehicle to allow passengers in the rear row of seating to be able to exit safely.

The meeting ended at 8:20 pm