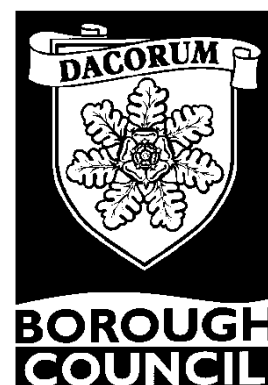


Report for:	Licensing Health & Safety and Enforcement Committee
Date of meeting:	31 January 2012
PART:	AGENDA ITEM: 5
If Part II,	SUMMARY



Title of report:	Criteria for the Licensing of Hackney Carriage and Private Hire Vehicles.
Contact:	Kathryn Ashton, Environmental Health, Team Leader, Regulatory Services
Purpose of report:	To advise the Licensing Health & Safety Enforcement Committee of the outcome of the consultation process in respect of:- <ul style="list-style-type: none"> • Wheelchair Accessible Vehicles; • Seating Arrangements; and • Criteria for licensing Hackney Carriage Vehicles and Private Hire Vehicles.
Recommendations:	That the Licensing and Health and Safety Enforcement Committee consider the responses/comments received following the consultation process and to determine an appropriate course of action.
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. The areas which are due to be addressed and were included as part of the reports to the Committee on 4 October and 1 November 2011 are as follows:

- Accessibility to licensed vehicles by disability groups
- Seating arrangements to allow unimpeded access and egress for passengers;
- Types of Hackney Carriages vehicles to be licensed by the Authority;
- Hackney Carriage/Private Hire Vehicle Age Policy;
- Stretched Limousines/"Special" Vehicles;
- English & Numeracy Testing;
- Knowledge Testing;
- The relevance of Convictions and Cautions and the decision making process in the light of them.
- Provide information regarding the expected conduct of licensed drivers.
- Conditions in respect of Hackney Carriage and Private Hire Drivers

1.2 Due to the number of issues that need to be addressed, it was proposed at the meetings of 4 October and 1 November 2011 that the Committee consider these amendments/proposals as a phased approach over the next few months. This was agreed at the meeting and it was resolved that the first three matters be subject to full consultation with the trade.

1.3 There has been extensive consultation with the trade. Letters have been sent to all 309 hackney carriage drivers, a public meeting was held on 14 December 2011 and a further meeting was held with representatives of the trade on 9 January 2012. The closing date for consultation responses was 18 January 2012. The matters that have been subject to consultation are outlined below.

2.0 Types of vehicle and accessibility by disabled groups

- 2.1 Section 47(2) of the Local Government (Miscellaneous Provisions) Act 1976 enables a District Council to require any Hackney Carriage licensed by them under the Town Police Clauses Act 1847 to be of such design or appearance or bear such distinguishing marks as to clearly identify it as a Hackney Carriage.
- 2.2 Section 48(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a District Council may not grant a Private Hire vehicle licence in respect of a vehicle unless the Council is satisfied that the vehicle is safe.
- 2.3 Dacorum Borough Council's existing policy in respect of Hackney Carriage Vehicles requires that all new vehicles licensed from 2004 shall be wheelchair accessible. The result of this is that there is a mixed fleet of saloon vehicles and wheelchair accessible vehicles.
- 2.4 The Department of Transport advises that it is the Licensing Authority's responsibility to take reasonable steps to ensure that licensed vehicles are safe for the fare paying public. It is considered that whilst Dacorum Borough Council requires the vehicles to undergo a compliance test and MOT to ensure the mechanical fitness of the vehicle prior to the granting of a licence, the Council may not be fulfilling its duty of ensuring the vehicles are safe should they be adapted.
- 2.5 Within the UK there are currently 3 legal mechanisms for the type approval of passenger cars/taxis. These are European Whole Vehicle Type Approval, (EWVTA), UK (Low Volume) Type Approval and Single Vehicle Type Approval, (SVA), now replaced by Individual Vehicle Type Approval (IVA).

3.0 M1 Whole Vehicle Type Approval

- 3.1 EC approval of most road vehicles is based around a 'Whole Vehicle' framework Directive 70/156/EEC as amended, which specifies the range of aspects of the vehicle that must be approved to separate technical Directives.
- 3.2 The M category of whole vehicle type approval applies to motor vehicles with at least 4 wheels, designed and constructed for the carriage of passengers. M1 whole Vehicle Type Approval is more specifically for vehicles designed and constructed for the carriage of passengers and comprising no more than 8 seats in addition to the driver.
- 3.3 In order to gain EC whole vehicle approval a vehicle will first have to be approved for eg, brakes, emissions, noise etc. The vehicles are subject to numerous checks involving varying weights and forces to check the integrity of the vehicle. This usually involves deduct testing the loadings which can be applied to seat belt anchorage points.
- 3.4 The issuing of whole vehicle approval does not in itself involve testing of each vehicle. But a production sample, (prototype), of the complete vehicle is inspected to check that its specification matches the specifications contained in all the separate Directive approvals. **The specification of the sample vehicle is recorded and only that specification is approved.** If any alteration is subsequently made to a vehicle, such as adding wheelchair securing equipment or modifications to seating, the M1 Whole Vehicle Type Approval Certificate for the vehicle could be considered invalid.

- 3.5 Automotive EC Directives and ECE Regulations require third party approval; testing certification and production conformity assessment by an independent body. Each Member State is required to appoint an Approval Authority and a Technical Service to carry out the testing to the Directives and Regulations. In the UK, the Vehicle Certification Agency (VCA) is both the Approval Authority and Technical Service and applications for Automotive Type Approval are made in writing to the VCA.

4.0 European Community Small Series Type Approval (ECSSTA) / National Small Series Type Approval (NSSTA)

- 4.1 Full EC Whole Vehicle Type Approval (EWVTA) won't suit everyone, particularly those manufacturing vehicles in low numbers. In recognition of this fact there are a number of other approval routes available, including:

4.1.1 EC Small Series Type Approval has been created for low volume car producers only, and like full ECWVTA will allow Europe wide sales but with technical and administrative requirements that are more adapted to smaller businesses.

4.1.2 (National Small Series Type Approval) is a UK national scheme for low volume manufacturers who intend to sell only in the UK. The advantages of NSSTA are relaxed technical requirements for some subjects, reduced Conformity of Production (CoP) requirements, and reduction in administrative requirements. Like ECWVTA, once the design is approved, individual vehicles do not need to be tested.

5.0 Seating Arrangements

- 5.1 There is an existing policy in respect of seating arrangements in that all passengers shall have access to a door without having to fold, tilt or move a seat. This applies to Hackney Carriage and Private Hire Vehicles and in addition all Wheelchair accessible Vehicles licensed as Hackney Carriages must have a door each side of the vehicle for passenger access and egress.

- 5.2 This was communicated to the trade by a letter in 2004 which is attached as Appendix one.

6.0 Reasons for Proposed Amendments to Policies.

- 6.1 In order to obtain a Hackney Carriage Vehicle Licence from 2004 all applicants have been required to present a wheelchair accessible vehicle.

- 6.2 It is becoming increasingly apparent following recent inspections by Licensing Officers that the wheelchair accessible vehicles as required by the Council since 2004 may not in fact be appropriate to carry wheelchairs safely and in addition to this some have been converted following the type approval thus potentially invalidating the original type approval.

- 6.3 Further inspections have been undertaken since the November meeting and all the wheelchair accessible Hackney Carriages licensed by Dacorum Borough Council have been inspected. It is confirmed that many of these have had adaptations made

since their original type approval thus potentially invalidating the original approval and many of the licence holders do not have any information as to who has carried out the conversion/adaptations.

- 6.4 Several of the vehicles inspected cannot load a wheelchair user within the vehicle based on seating configuration and need to remove seat(s) to allow space for the wheelchair and some did not have the required straps to safely secure the wheelchair user.
- 6.5 The inspections have also revealed many vehicles where seats have been removed to comply with the policy in respect of requiring unimpeded access and egress without the need to fold or tilt a seat. Once again this invalidates the original type approval in some cases.
- 6.6 There is concern that some of these vehicles maybe unsafe and this will need to be addressed.
- 6.7 It was recommended at the meeting in November 2011 that for all future licensing that the following policy be adopted by the Council. Any Policy would of course be subject to consultation as discussed earlier in this report.

6.7.1 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 or small series type approval and unaltered since the type approval

6.7.2 A Private Hire Vehicle Licence will only be granted in respect of a vehicle which complies with British and European vehicle regulations, be type approved to the standard of M1 whole vehicle or small series type approval and be unaltered since type approval

7.0 Responses to the Consultation

- 7.1 Two responses have been received from the trade in respect of this consultation and these are attached as Annexes A and B respectively.

8.0 Options available to the Committee

- 8.1 To agree the proposed policy as detailed in 6.6.1 and 6.6.2 above to ensure that all future vehicles licensed by the Authority are safe for fare paying passengers or to amend or reject this proposal; and
- 8.2 To determine what action to be taken in respect of those currently licensed as wheelchair accessible vehicles that have been adapted since type approval. This could include:
 - Continuing to licence those vehicles that have not been properly converted for a limited period of time and preventing the carriage of wheelchair users; or

- Continuing to licence those vehicles that have not been properly converted for a limited period of time to continue carrying all passengers; or
- Ceasing to license those vehicles which have not been properly converted immediately; or
- Any other required action

8.3 To make a decision on whether to amend the policy in respect of seating arrangements ie. whether seats should be removed or licensed as per manufacture.

ANNEX A

From John McIlvaney HD265

To Licensing Committee.

I find it quite amazing that you are considering disqualifying rear loading taxis.

The Department of Transport advises LA's (Licensing Authorities) to be very wary of disqualifying various types of vehicle.

In our town with very limited off street parking on many of our roads, sometimes it is only possible to load a wheelchair from the road and not from a pavement and in that case it is much easier to load from the rear than from the side.

As for the blocking of scarce rank space, it is often the case that the Town Rank is full of saloon cars, especially at night but sometimes during the day, and the first available Wheelchair Accessible Vehicle making side loading very problematic. It must also be said that are considerate enough to make space to load a wheelchair.

I believe that there are three drivers that have purchased rear lifts for their vehicles at a cost of over £1500 each. This is surely the safest way to load an occupied wheelchair into a vehicle.

A sizable number of new conversions are rear loading.

Charities, Schools, Social Services and the Emergency Service all successfully use rear loading.

On all side loading vehicles that I know of they can only be loaded from one side, so if a crash happens on that side it would not be possible to exit the vehicle in the wheelchair. Therefore the side loading vehicle can be equally disadvantaged as a rear loading vehicle.

Some drivers would also have acquired their vehicles to fulfill the requirements of contracts (schools or social services) and any change in the rules could endanger those contracts.

What do you plan to do about drivers who have purchased vehicles on hire purchase over a number of years and under the current rules?

Are you going to compensate them?

I conclude that the Department of Fair Trade in its report 'The Determination of Accessible Taxi Requirements' that there was a place for all types of accessible vehicles and a restriction of type would be a mistake.

I support the motion to reinstate any seats that have been removed.

When a driver purchases a vehicle that is acceptable to the LA. It should be licensed for the full number of seats that registered with.

I contend that the public are educated enough to make a decision on whether they travel in a car that they have to tilt a seat to access the rear seats or pay for two taxis, the choice should be theirs to make and not imposed on them.

There is a consequence to one of the current conditions 'not to climb over or cause a person to move in a vehicle to gain access or egress' does that mean that all saloon cars will now only be licensed for three people as the middle passenger has to ask a companion to move to leave the vehicle or climb over them of course.

It would only seem sensible to look at fitting an emergency exit button or handle for those sitting in the rear of a vehicle.

Criteria for Licensing Hackney Carriage and Private Hire Vehicle.

Why is the LA. Ignoring the Individual Type Approval?

The M1 Whole Vehicle Type Approval and the European Community Small Series Type are for cars that can be sold in the whole of the EU.

The Individual Type Approval is meant solely for retail in the UK market. Why is this unacceptable?

How would this be possible for the entrepreneur to break into this lucrative market if we ignore it? The ITA is an acceptable way for conversion in this country and is accepted as such by the executive of the UK.

I am wondering if this consultation is saying that we have licensed unsafe vehicles.

All the above conversions are just coachbuilding plain vans. The removal of seats from these vans would not alter type approval. Hence some converters allow for different setups according to the individuals requirements. It is possible in some of these conversions to remove all seats to allow for three or more wheelchairs to be accommodated.

The important issue in all of this is whether the supports and/or restraints are to British standards and therefore safe for the wheelchair occupant and indeed being used correctly.

The Department of Fair Trade does emphasize in its report the need for disability awareness training including access and egress and the correct use of restraints. Is this currently under review?

Surely the LA should be looking at the advice given by The Department of Fair Trade: "The determination of Accessible Taxi Requirements". They look at size of door, tracking, space to maneuver a wheelchair, handholds, access to switches and door release etc.

We must not look to ensure that the "big boys" stay in the market and any new coachbuilders are excluded because they only want to sell in the UK on a very small scale. Every newcomer has to start in a small way to begin with.

Mr Dyson on those rules would not have been able to break into the market and the world would not have one of the best vacuum cleaners.

We have a small business based in the Maylands Enterprise Zone, it seems we are happy for them to pay rent and business rates, to employ people locally and pay tax, if you pass this motion without allowing individual type approval it would exclude them from using their expertise in the Dacorum Taxi trade.

It must also be mentioned yet again that if any vehicle has been properly licensed by this authority and maintained to their high standards a change of rule could mean that vehicle no longer being acceptable and consequently that owner/driver loses his/her livelihood. Is there going to be some form of compensation?

I also request a slot to talk to the committee on all three of the above matters.

ANNEX B

Seating Arrangements for MPV vehicles within Dacorum Borough Council.

I have previously made comments regarding this issue at the Licensing committee meeting in October and subsequent meeting with the Licensing department at the meeting in December.

Currently its is a requirement of MPV Licensed taxis to remove a seat from the vehicle. This was put down to Health and Safety.

Having spoken to the three main manufactures of these vehicles, Ford (Galaxy), Volkswagen (Sharan) and Seat (Alhambra) , they were completely shocked that a seat was being removed for health and safety. They all stipulated that before a car is put on the production line. Many stringent tests are carried out to ensure its safety and suitability including entry and exiting the vehicle. They have assured me that no vehicle released for sale is unsafe. In fact they state that removal of a seat fails to fulfil the correct usage of the car and is more hazardous.

This requirement to remove a seat is not in place in any of the neighbouring boroughs which include, Watford. Three rivers, Hertsmere, Chiltern, Luton, Aylesbury Vale, St Albans to name a few.

Constant problems:

Drivers are constantly faced with arguments with customers as there is a group of 6 who cannot be taken on the rank where the car is suitable but due to seat removal the customers are then forced to take two cars. This ultimately results in the customers blaming drivers saying they are ripping them off and loss of faith in the trade.

Another such problem exists when passengers are required to walk through the gap where the seat has been removed.

Following on from the above, customers falling in gaps where they expected a seat to be.

Children tripping within the car as room where the seat should be.

A further issue is one of the award of County Council contracts. The system of awarding contracts is that the County Council place a tender page on their website. This enables local companies/individuals registered on the system to bid for the contract. This is open to all boroughs within the county of Hertfordshire. Please see below for an example.

A school run is placed on the website where it requires the transportation of 5 school children with an escort from their homes to a school in Hemel.

Companies within Dacorum would not be able to apply for such a school run as their MPV due to the seat removal can only take 4 children and the escort. They would have to bid using two cars or a big vehicle which ultimately has increased costs going against the objective to win the contract at the best rate. However all the neighbouring boroughs can bid and be successful in securing a contract using one MPV. This is a clear disadvantage to those working within the borough.

Knock on effects:

Loss of faith in the trade.

Potential Injury.

People threatening to sue for falls.

Going against the manufacturer type.

Loss of school contracts to neighbouring boroughs where no such requirement in place.

Insurance affected as only insured to carry a maximum of 5 passengers so cannot use to full capacity for own personal use on family trips.

Conclusion:

We request that this requirement be itself removed and MPV vehicles be restored to their maximum utility allowing the vehicles to be used as they have been designed. Thus not affecting manufacturing type approval.