

Runnymede Borough CouncilREGULATORY COMMITTEE25 September 2018 at 7.50pm

Members of the Committee present: Councillors Mrs J Gracey (Chairman), S A Lewis (Vice-Chairman), D A Cotty, Mrs E Gill and Ms A Shepperdson.

Members of the Committee absent: None.

261. FIRE PRECAUTIONS

The Committee noted the Fire Precautions.

262. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

The Group mentioned below had notified the Chief Executive of their wish that the change listed below be made to the membership of the Committee. The change was for a fixed period ending on the day after the meeting and thereafter the Councillor removed would be reappointed.

<u>Group</u>	<u>Remove From Membership</u>	<u>Appoint Instead</u>
Runnymede Independent Residents' Group	Councillor Mrs M T Harnden	Councillor Mrs E Gill

The Chief Executive had given effect to this request in accordance with Section 16(2) of the Local Government and Housing Act 1989.

263. MINUTES

The Minutes of the meeting of the Committee held on 26 June 2018 were confirmed and signed as a correct record.

264. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY – 18 MONTH REVIEW

The Committee's approval was sought for amendments to be made to the Council's 3 year Hackney Carriage and Private Hire Licensing Policy which had reached the point of its being in operation for 18 months.

The Committee was pleased to note that, to date, the policy was working well, noting the examples set out in the report with regard to aligning the renewal dates for drivers' licences with those for medical reports and Disclosure and Barring Service (DBS) certificates and the requirement not to plate vehicles with advisory notices arising from MoTs or accepting vehicles with part worn tyres.

Minor changes to reflect the new Data Protection Act 2018 and a new Surrey wide Convictions Policy had already been made.

Members agreed that the policy was a positive step forward which gave clear guidance to both Licensing officers and the trade and had resulted in welcomed cost savings. Officers confirmed that the policy had not been challenged although they had received representations regarding tinted windows which was being considered separately.

Officers now sought to amend the policy to align with requirements under the Equality Act 2010 sections 165 – 167 which were implemented on 6 April 2017. Section 165 placed specific duties on the designated drivers of wheelchair accessible vehicles to accommodate wheelchair users and Section 167 allowed the licensing authority to maintain a list of wheelchair accessible vehicles licensed by them. Officers confirmed that the 10 adapted vehicles were listed on the Council's website together with their make and model, name and contact details of the relevant Private Hire Operator. Members noted that Section 166 of the Act allowed for exemption certificates to be given to drivers under medical or physical grounds.

Officers confirmed that whilst it was not included in the Act, government guidance not to charge a wheelchair user extra meant that in practice, amongst other matters, a meter should not be left running while the driver performed duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment. This ensured that wheelchair users would not be financially disadvantaged. It was noted that people with assistance dogs were already protected similarly under the Equality Act in relation to Hackney carriage and Private Hire vehicles.

The Committee was advised that all drivers and Private Hire Operators were written to in April 2017 explaining the provisions of the Act and their obligations.

Members were pleased to approve the amendments as proposed and attached at Appendix 'A'.

**RESOLVED that –**

- a) the contents of the report be noted; and**
- b) the proposed changes to the Hackney Carriage and Private Hire Policy regarding the Equality Act 2010 be approved**

265. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY ON TINTED WINDOWS

The Committee was asked to determine whether the Council's existing policy on tinted windows in Hackney Carriage and Private Hire vehicles should be amended in response to representations from the Trade and as a result of consultation with the Trade and public.

Officers advised that since publication of the agenda, the Department for Transport (DfT) had published 'Taxi and Private Hire Vehicle Licensing – Steps towards a safer and more robust system'. The document was 68 pages in length, containing 34 recommendations and Officers required some time to consider its contents and the full implications for the current Hackney Carriage and Private Hire Licensing Policy and the wider taxi licensing regime.

With regard to statutory guidance the view emerging from the Task and Finish Group was that guidance to local authorities must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers with an objective of having more national minimum standards. The Committee agreed that the issue of tinted windows was one primarily of public safety and relevant to this debate.

Members noted that the current policy was that all rear windows had to allow at least 70% of light to be transmitted through them, no additional material could be used to darken windows further and front and side windows must meet the requirements of the Road vehicles (Construction and Use) Regulations 1986. However, privacy glass was acceptable where fitted to plate exempt vehicles.

Officers had received a representation from one Private Hire Operator company supported by 58 drivers, 56 of whom disagreed with the current policy and sought for a review to allow tinted rear windows. Therefore, Officers had conducted an extensive consultation exercise between June and August 2018 to establish the views of the wider community of the Trade and the public. The consultation proposed four options; the first allowing for tinted windows of some description was favoured by 4 drivers and operators, the second option allowing darker tinting on all but the door windows was chosen by 3 members of the public, the option to allow any degree of tinted windows was favoured by 16 drivers and 1 operator and the option not to change the policy was chosen by 14; a mix of drivers, 1 operator, 6 members of the public and 2 'other'.

It was noted that there was a difference between the opinion of the Trade and the public.

Officers confirmed that whilst four options were presented in the report concerning the grade of tinted windows that might be permissible it was prudent in the light of the DfT document to now recommend that the option to make no changes to the current policy be approved, pending consideration of the DfT recommendations by central Government.

Officers further proposed an exemption for the larger 8 seater multi-purpose vehicles which were the only vehicles available to wheelchair users and which were also very costly to change the glass fitting. The Committee agreed that exercising discretion in this manner was sensible.

The Committee also agreed that public safety was the priority and that for now it was prudent not to change the current policy on tinted windows but to await further guidance.

Officers were asked to provide the Committee with information regarding how many drivers were affected by the current policy and the financial impact on them to change their vehicles.

**RESOLVED that –**

**Option C – no change to the current policy and applying the exception described in sections 2.18 and 2.19 of the report be adopted and the policy to be reviewed either at the end of the 3 year life of the current policy or when further best practice guidance is published, whichever is the soonest.**

Chairman

(The meeting ended at 7.52pm)

**Extract from the Hackney Carriage and Private Hire Licensing Policy 2017 – 2020 as amended****5.76. Wheelchair Accessible Vehicles**

- 5.77. Section 165 of the Equality 2010 Act sets out the duties placed on drivers of designated wheelchair accessible taxis and PHVs.
- 5.78. The licensing authority maintains a 'designated vehicle' list in accordance with the Equality Act 2010, as such drivers are subject the following duties:-
- a) to carry the passenger while in the wheelchair;
  - b) not to make any additional charge for doing so;
  - c) if the passenger chooses to sit in a passenger seat to carry the wheelchair;
  - d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
  - e) to give the passenger such mobility assistance as is reasonably required.

The Act then goes on to define mobility assistance as assistance:

- a) to enable the passenger to get into or out of the vehicle;
  - b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
  - c) to load the passenger's luggage into or out of the vehicle;
  - d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- 5.79. It is the licensing authorities view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment.
- 5.80. To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:
- a) Have a zero tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.  
and may
  - b) Undertake periodic test purchasing with assistance dog owners or wheelchair users on licensed vehicles to ensure that licensing requirements are being complied with.

**5.81. Medical Exemption Certificates**

- 5.82. Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.  
The Licencing Authority will:

- a) Make it a condition to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- b) Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.
- c) Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

- 5.83. Exemptions from the carriage of luggage and/or handling of wheelchair users** – may be permitted where the licensing authority is satisfied that it is appropriate to do so on medical grounds, for example musculoskeletal pain which is aggravated by the carriage and/or manual handling of heavy loads.