
Meeting: Extraordinary Regulation Committee Meeting
Date: 13th January 2010
Subject: Hackney Carriage Conditions
Report of: Gary Alderson - Director of Sustainable Communities
Summary: This report seeks a decision from members in relation to those conditions they wish to adopt and subsequently apply to this type of licence

Contact Officer: Margaret James, Licensing and Enforcement Officer
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

Supporting and Caring for an ageing population – provision of safe public transport supports independent living.

Educating protecting and providing opportunities for children and young people - provision of safe public transport allows children and young people to travel to educational and other activities in a safe environment.

Creating safer communities – the provision of regulated public transport helps ensure a vibrant and safe night time economy.

Financial:

Fees are payable for this type of licence, the fees being charged represent the cost to the Council of producing this type of licence.

Legal:

Local Government (Miscellaneous Provisions) Act 1976.
Town Police Clauses Act 1847.

Risk Management:

Ensuring that private hire vehicles operating in central Bedfordshire are safe and properly regulated.

Staffing (including Trades Unions):

There are no staffing implications.

Equalities/Human Rights:

The Council has a legal duty to proactively promote race, gender and disability equality and to tackle discrimination experienced by other vulnerable groups. In order to ensure accessibility for disabled people and to ensure the personal safety of all vulnerable groups wishing to use this form of transport, conditions have been proposed to ensure that this duty is met.

Community Safety:

Contributes to a safer public transport system and a safer night time economy. The Council has a statutory duty under Section 17 of the Crime and Disorder Act to do all that it reasonably can to reduce crime and disorder in its area. The provision of safe and well regulated vehicles contributes to this duty.

Sustainability:

By regulating this service area we can ensure that those businesses who are compliant can be supported, and resources can be focused at those businesses that will not comply.

RECOMMENDATION(S):**That the Regulation Committee:**

- 1. decide which conditions they wish to apply as indicated in Recommendations A to F contained within the report;**
- 2. approve the amended conditions;**
- 3. recommend that Full Council adopts those conditions;**
- 4. That the Assistant Director Community Safety and Public Protection, in consultation with the Portfolio Holder for Safer and Stronger Communities, be given delegated authority to undertake any necessary minor amendments to the conditions prior to publication.**

Background

1. This Council is the Licensing Authority for hackney carriage and private hire drivers, vehicles and operators and is responsible for providing a licensed service to the community that is safe and accessible.
2. The hackney carriage and private hire trade have a right to expect a fair and reasonable licensing regime.
3. The policies and conditions attached to the former South Bedfordshire District Council (S.B.D.C.) licences, differ to those attached to the former Mid Bedfordshire District Council (M.B.D.C.) It is necessary, therefore, to agree on new policies and conditions for Central Bedfordshire Council.

4. Regulations exist which provide for the continuity of existing legislation until new policies and conditions are adopted.
5. During this transition period, it has been necessary to zone Central Bedfordshire into two areas to reflect the policies and regulations previously adopted by SBDC and MBDC.
6. The new policies and conditions must be in place by 1st April 2010.
7. In matters where interested parties have opposed the draft conditions, Members will be given options to either keep the draft conditions or amend them.

The Consultation Process

8. Before a local authority can make a decision on policies and conditions affecting the hackney carriage and private hire trade, they must consider the views of all interested parties.
9. In March 2009, all hackney carriage and private hire proprietors, operators and drivers were informed of the need for consultation. A copy of the letter sent to the trade is attached at Appendix 'A'.
10. In April 2009, all hackney carriage and private hire proprietors, operators and drivers, together with other interested parties, were informed of the consultation process and sent draft copies of new application forms, conditions and policies relating to hackney carriage and private hire matters. A copy of the letter sent to the trade is attached at Appendix 'B'.

Response to the Consultation

11. A good response to the consultation was received from the trade. Approximately 85 licence holders attended the 'drop in' meetings and numerous comments were made by letter, fax and in person. The views of the trade and other interested parties are attached at Appendix 'C'.

Hackney Carriages

12. A hackney carriage is a vehicle licensed by the council in the area in which it undertakes its business. It can only be driven by a driver who holds a licence granted by the same local authority. It can ply for hire or wait at a hackney carriage stand. It can also be pre-booked in the same way as a private hire vehicle.
13. The draft hackney carriage conditions are attached at Appendix 'D'.

Views of Interested Parties

14. No comments were received about the draft vehicle application form or the guidance notes attached to it. However, the trade and other interest parties are concerned about the following matters.

Age of Vehicles

15. With few exceptions, the majority of the trade do not agree with an age limit on hackney carriages. They would also prefer that consideration be given to imposing a minimum age for vehicles when first licensed by the authority.
16. The Department for Transport Best Practice Guidance states:

‘it is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not licence vehicles may be arbitrary and inappropriate. But a great frequency of testing may be appropriate for older vehicles – for example, twice-yearly for vehicles more than five years old’

17. The National Association of Licensing and Enforcement Officers (NALEO) Model Standard for licensed vehicles state:

‘due to the high mileage and the general wear and year achieved, consideration should be given to an upper age limit. You could also consider additional vehicle tests within the licence period with a maximum of three inspections in a one year period’

18. Members should note that, proprietors refused a licence because of an age restriction, are entitled to appeal that decision and members must consider the application if requested to do so.
19. The former SBDC had a policy whereby all hackney carriages were wheelchair accessible. There was no age limit on vehicles.
20. The former MBDC had a policy whereby all hackney carriages were wheelchair accessible. There was a 10 year age limit on vehicles.
21. In view of the Department for Transport’s Best Practice Guidance and the views of the trade, Members may wish to lift the 10 year age restriction on hackney carriages.
22. The Hackney Carriage licence condition 1 that was consulted on contains an age restriction on vehicles:

All Hackney Carriages must be wheelchair accessible and will be licensed up to a maximum age of 10 years from the original date of vehicle registration.

Vehicles currently licensed that are not wheelchair accessible will be permitted to be re-licensed up to a maximum of 6 years from the original date of vehicle registration.

Vehicles currently licensed as wheelchair accessible hackney carriages will be permitted to be re-licensed annually provided they pass the mechanical requirements, but any replacement vehicle will be required to meet all requirements.

23. **Recommendation A:**

Condition 1:

That Members decide if they wish to keep the current age restriction on vehicles,

Or;

if they wish to lift the restriction and replace Condition 1 with:

All hackney carriages must be wheelchair accessible and conform to the hackney carriage licence conditions.

All new hackney carriages must be under 5 years of age from the original date of registration when first licensed.

Vehicles currently licensed as wheelchair accessible hackney carriages will be permitted to be re-licensed annually provided they pass the mechanical inspection, but any replacement vehicle will be required to meet all requirements.

Vehicles currently licensed that are not wheelchair accessible will be permitted to be re-licensed up to a maximum of 10 years from the original date of vehicle registration provided they pass the mechanical inspection. Any replacement vehicle will be required to meet all requirements.

Mechanical Test

24. Some members of the trade are unhappy with the proposed frequency of vehicle inspections.
25. The former SBDC required all hackney carriages to be inspected every 6 months. Their nominated testing centre was Luton Borough Council's Transport Depot. Each vehicle would be issued with a Certificate of Compliance once a year and a satisfactory pass certificate every 6 months.
26. The former MBDC required all hackney carriages to be inspected annually. All vehicles were subject to two inspections each year when the vehicle's total mileage exceeded 100,00 miles. They had three nominated testing centres, one in Biggleswade, one in Flitwick and Luton Borough Council's Transport Depot. Vehicles that were subject to a 6 monthly test because the total mileage had exceeded 100,00 miles, could be tested at any VOSA appointed test centre registered to test that class of vehicle.

27. The Department for Transport Best Practice Guidance states:-

'the legal requirement is that all taxis should be subject to an MOT test or its equivalent once a year. An annual test for licensed vehicles of whatever age seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. However, more frequent tests may be appropriate for older vehicles. Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emission test. This finding, perhaps, suggests that emissions testing should be carried out on an ad hoc basis and more frequently than the full vehicle test'

28. The NALEO Model Standard for Taxi and Private Hire Licensing states:-

'to ensure that vehicles are mechanical sound, they should be inspected at least once, but not more than three times a year'

29. Local Authority's with the responsibility of licensing hackney carriages can only licence such vehicles if they are satisfied that they meet a satisfactory standard of mechanical inspection. Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 lays out the requirements that such vehicles have to meet, which are in addition to those things that must be tested during a standard MOT. On receipt of a satisfactory mechanical inspection, the Council may issue a 'Certificate of Compliance' to hackney carriages. A local council designated by the Secretary of State can undertake these inspections itself.

30. If a council wishes to authorise contractors to carry out the additional checks necessary to meet the requirements in respect of vehicles, officers would suggest inviting prospective garages in Central Bedfordshire to express an interest in carrying out the work.

31. A standard MOT certificate (for 6 monthly inspections) can be issued by any VOSA appointed test centre.

32. In view of the Department for Transport Best Practice Guidance and the views of the trade, Members may wish to amend the frequency of the testing of vehicles.

33. In view of the inspection requirements for hackney carriages, Members may wish to nominate Luton Borough Council's Transport Depot and Bedford Borough Council's Transport Depot as the nominated test centres for issuing annual Certificates of Compliance.

34. The hackney carriage licence condition 16 that was consulted on was:

All vehicles, including new, are required to undertake an initial mechanical compliance inspection at the Council's nominated test centre.

The annual test must be the Compliance inspection carried out at the Council's nominated test centre. The second (six monthly) test may be at any VOSA appointed garage registered to test that class of vehicle.

35. **Recommendation B:**

Condition 16:

That members decide if they wish to keep the current condition regarding frequency of testing and to refer only to 'the Council's nominated test centre',

Or;

if they wish to change the frequency and to name the nominated test centres and replace condition 16 with:

- (a) All vehicles, including new, are required to undertake an annual mechanical compliance inspection at the Council's nominated test centre at Luton Borough Council's Transport Depot or Bedford Borough council's Transport Depot.**
- (b) A second (six monthly) test will be required on any vehicle over the age of 5 years. It can be carried out at any VOSA appointed garage registered to test that class of vehicle.**

First Aid Kits

36. Some drivers are unhappy with the requirement to carry a first aid kit.

37. The former SBDC did not require a first aid kit to be carried in hackney carriages.

38. The former MBDC required first aid kits to be carried in hackney carriages.

39. There is no legal requirement for first aid kits to be carried in hackney carriages, however, as part of Health and Safety at Work legislation, a first aid kit should be carried in the vehicle to enable a driver to administer basic first aid to himself only.

40. **Recommendation C:**

Condition 20 (j):

That members decide if they wish to keep condition 20 (j) requiring drivers to carry a first aid kit in their vehicles, or if they wish to delete the condition which states:

**provide a suitable first aid kit to comprise of at least the following items:-
sterile wound dressings (small, medium, large), eye pad, assorted plasters, triangular bandage, antiseptic wipes, 1 pair blunt end scissors**

Fire Extinguishers

41. **Recommendation D:**
- It has been pointed out that condition 14 partly duplicates condition 20(i) relating to fire extinguishers. Officers would, therefore, recommend deleting hackney carriage condition 14.**

Complaints

42. A member of the Regulation Committee has expressed concern that the requirement to present a vehicle to the Authorised Officer for inspection and possible testing within one working day of being requested to do so is too strict.
43. The hackney carriage licence condition 32 that was consulted on was:
- Any vehicle against which a complaint is laid must be presented to the Authorised Officer within one working day of being so requested for inspection, possible testing and for the driver to answer such complaint.

44. **Recommendation E:**
- Condition 32:**
- That members decide if they wish to keep condition 32 requiring drivers present their vehicle to an Authorised Officer within one working day,**
- Or;**
- to amend the condition to three days and replace condition 32 with:**
- Any vehicle against which a complaint is laid must be presented to the Authorised Officer within three working days of being so requested for inspection and/or possible testing and for the driver to answer such complaint.**

Technical Requirements

45. **Recommendation F:**
- During the consultation period, officers have sought confirmation that the technical requirements contained in the hackney carriage conditions are correct. Following advice, the following modifications are recommended:**
- Condition 1 (b) – the deletion of the words ‘in the M1’**
- Condition 20 (i) – after (min 1 kg dry powder) the words ‘or a one litre foam, both types should have gauges to show the state of charge, and should be manufactured to satisfy relevant BSEN accreditation’.**
- Condition 28 – after proper manner, the words ‘The trailer should be built by an approved or recognised trailer manufacturer’.**

Conclusion and Next Steps

46. Members' recommendations will be put before a meeting of the Full Council on 25th February 2010.

Appendices:

Appendix A - letter sent to the trade dated March 2009

Appendix B - letter sent to the trade dated April 2009

Appendix C - Views of the trade and other interested parties

Appendix D - Draft hackney carriage conditions

Background Papers: N/A

Location of papers: The Council Offices, Dunstable