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**Meeting:** Regulation Committee

**Date:** 25 August 2010

**Subject:** Definition of a vehicle of 'Exceptional Condition'

**Report of:** Gary Alderson – Director of Sustainable Communities

**Summary:** To make a decision on the wording to be used in order that vehicles can be defined as one of 'exceptional conditions'.

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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.

### **Financial:**

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

### **Legal:**

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

### **Risk Management:**

Ensuring that Hackney Carriage and 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 the personal safety of all vulnerable groups wishing to use licensed vehicles, conditions attached to licences 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 sufficient numbers of taxis is a key component of reducing crime and disorder problems linked to the night time economy and licensed premises. In addition, it is essential to ensure that the public, and particularly more vulnerable members of the community, are not left without safe transport options which may lead them to take decisions which put their safety at risk.

**Sustainability:**

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

**RECOMMENDATION:**

1. **that the Committee consider defining a vehicle of 'exceptional condition'.**

**Background**

1. The 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 conditions attached to hackney carriage and private hire vehicles state:  
  
'All new hackney carriages must be under 5 years of age from date of first registration when new'.  
  
'All new private hire vehicles must be under 5 years of age from date of first registration when new'.
4. Any Council which imposes an age limit on its vehicles must be prepared to consider applications where the condition of the vehicle is deemed as being so exceptional as to merit waiving normal policy
5. Applicants aggrieved by a Council's refusal to issue a hackney carriage licence are entitled to appeal to the Crown Court.
6. Applicants aggrieved by a Council's refusal to issue a private hire vehicle licence are entitled to appeal to the Magistrates Court.

7. On 19 May 2010, Members considered an application from a proprietor who wished his vehicle to be classed as one of 'exceptional condition'. A decision was made by Members at that time to allow the application. However, Members were concerned that a suitable criteria should be adopted to enable any future decisions to be based on information provided by the applicant and officers together with an inspection on the outward appearance of the vehicle.

#### **Definition of 'Exceptional Condition.**

8. Each application for a vehicle over 5 years of age from date of first registration will need to be considered on its own merits.
9. It is essential that the image of an exceptional older vehicle upholds the standards normally set by a much younger vehicle.
10. It is necessary to decide the criteria to be taken into account when determining an application for a vehicle of 'exceptional condition' in order to provide a consistent and transparent approach.
11. Members may wish to consider the wording suggested by Cllr Nunn following the Regulation Committee Meeting on 19 May 2010:  
  
'A vehicle of 'exceptional condition' where the components i.e. mechanical, body panels, paint, interior and trim are maintained to a high standard of repair as supported by the relevant certification and exceed those normally associated with the age of the vehicle'
12. If Members do wish to use the wording suggested by Cllr Nunn, Members may wish to consider using the following guidelines for each application:
13.
  - (a) The vehicle must pass the Council's vehicle inspection.
  - (b) The bodywork should be in near perfect condition with no signs of age deterioration, dents, scratches, stone chips or rust or any other abrasions that may detract from the overall appearance of the vehicle.
  - (c) The general paint condition should not show signs of fading, discolouration or mismatching that may detract from the overall appearance of the vehicle.
  - (d) The interior trim, panels, seating and carpets should be in excellent condition clean, free of damage and discoloration.
  - (e) The vehicle service record can be used as supporting evidence of exceptional condition in that the vehicle would normally be expected to demonstrate regular servicing and maintenance in accordance with the manufacturer's service specification.
  - (f) An independent vehicle data check can be used as supporting evidence of the vehicle's history.

14. Members will wish to know that one application has been received from a private hire proprietor and one application has been received from a hackney carriage proprietor. Both proprietors wish their vehicles to be classed as being in an exceptional condition at the Regulation Meeting today. A decision on the criteria to be used will be necessary, therefore, before their applications can be properly considered.

**Appendices:**

None

**Background Papers:**

None

**Location of papers:**

The Council Offices, Dunstable