

LR397  
FOR DECISION  
WARD(S): ALL

LICENSING AND REGULATION COMMITTEE

11 October 2012

REVIEW OF CONDITION FOR WINDOW TINTING IN LICENSED VEHICLES

REPORT OF HEAD OF LEGAL SERVICES

Contact Officer: Ashton Taylor Tel No: 01962 848 179

RECENT REFERENCES:

[LR348](#) – Review of the Hackney Carriage and Private Hire Conditions of Licence, 1 December 2010

[LR359](#) – Review of the Hackney Carriage and Private Hire Conditions of Licence, 28 March 2011

EXECUTIVE SUMMARY:

This report considers whether changes should be made to the Hackney Carriage and Private Hire Vehicle Conditions relating to the condition for window tinting following an operation testing licensed vehicle's tinted windows with VOSA.

RECOMMENDATIONS:

- 1 That Members consider the information contained in this report and whether any change should be made to the Statement of Licensing Policy with respect to Hackney and Private Hire Vehicles, Drivers and Private Hire Operators.
- 2 If no comments are received, that Members delegate to the Head of Legal Services power to implement the amended Policy within a reasonable time.

## LICENSING AND REGULATION COMMITTEE

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### REVIEW OF CONDITION FOR WINDOW TINTING IN LICENSED VEHICLES

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##### DETAIL:

##### 1 Introduction

- 1.1 On 1 December 2010, the Licensing and Regulation Committee were presented with draft Hackney Carriage and Private Hire Conditions. It was agreed that the conditions proposed to the Committee should be sent out for consultation.
- 1.2 Following the consultation, the Licensing and Regulation Committee met on 28 March 2011 to review the proposed amendments to the conditions. The amendments were agreed and the Hackney Carriage and Private Hire Conditions came in to effect from 1 April 2011. (Appendix 1)
- 1.3 The agreed conditions have been enforced by authorised Licensing Officers since they came into effect. However, as the Council do not have the facility to test the percentage of light that filters through vehicle windows, condition 4(g) has not been fully enforced when licensing new vehicles. Condition 4(g) states:

“WINDOWS. No less than 75% of light must filter through the windscreen and no less that 70% light must filter through all other windows (Regulations 32(10) Road Vehicles (Construction and Use) Regulations 1986).”
- 1.4 Licensing Officers have become aware of licensed vehicles that are believed to be in breach of the above condition. Subsequently, all drivers with tinted windows on their Hackney Carriage and/or Private Hire Vehicles were invited to bring their vehicles on the 1 August 2012 to be tested by a member of the Vehicle and Operator Services Agency (VOSA).
- 1.5 On this date, 26 vehicles attended the window inspections. Out of those 26, only 15% did not breach condition 4(g). There are more vehicles, with tinted windows, that Licensing Officers are aware of that were unable to attend the inspection.
- 1.6 Licensing Officers were in attendance while the windows were being inspected and were surprised at the difficulty in visually distinguishing between those that are in breach of the licensing condition and those that are not, without the appropriate testing equipment.

1.7 Informal discussions have take place between Licensing Officers and licensed drivers regarding the need for tinted windows. During these discussions a few concerns were raised. These concerns can be found at point 6 of the report.

1.8 The Head of Legal Services considered that it should be brought to the attention of the Licensing and Regulation Committee to review and possibly amend condition 4(g).

## 2 Law Commission consultation

2.1 The Law Commission produced a consultation document "Reforming the Law of Taxi and Private Hire Services" which went out for consultation from 10 May 2012 to 10 September 2012.

2.2 One of the Law Commission's proposals was that taxis should have *minimum* national safety standards and that private hire vehicles should have *mandatory* national safety standards. It is considered that the mandatory national safety standards for private hire vehicles should be set at the same level as the minimum standard for taxis. Council's would not be able to impose additional requirements on private hire vehicles.

2.3 It is not clear what the Law Commission considers is bottom-line safety standards. If introduced, this would likely be set by the Secretary of State and Welsh Ministers.

## 3 Department for Transport – Best Practice Guidance

3.1 The Department for Transport – Best Practice Guidance issued in March 2010 states:-

30. The minimum light transmission for glass in front of, and to the side of, the driver is 70%. Vehicles may be manufactured with glass that is darker than this fitted to windows rearward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations.

## 4 Law

4.1 The law requires that the windows on the vehicle allow at least:

- 75 per cent of light through the front windscreen
- 70 per cent of light through the front side windows

## 5 Other Authorities in Hampshire and Isle of Wight

- 5.1 Research was conducted to see whether other authorities throughout Hampshire and Isle of Wight have set specifications for window tinting in their conditions. The results are as follows:-

<b>Authority</b>	<b>Condition on Window Tinting</b>
Basingstoke and Deane Borough Council	None
East Hampshire District Council	There shall be no additional tint (darkening) of the windows beyond the legal limit of light transmission (not less than 75% for front and side front windows, and 70% for all other windows) or the manufacturer's specification, whichever is the lesser.
Fareham Borough Council	None
Gosport Borough Council	None
Hart District Council	All windows must have a visible light transmission of not less than 75%.
Havant Borough Council	None
Isle of Wight Council	Tinted windows or anything that prevents clear vision into the vehicle shall not be permitted.
New Forest District Council	None
Portsmouth City Council	None
Rushmoor District Council	No vehicle window or bulkhead shall be tinted or otherwise be made of or covered in any material that effectively darkens and/or obscures the view into or out of the vehicle. *This specification shall apply to all vehicles except for exclusively hired private hire vehicles that qualify for a hard plate exemption.
Southampton City Council	None
Test Valley Borough Council	None

## 6 Concerns

6.1 Some concerns that members may wish to consider are:-

- a) In the heat of mid-summer, the vehicle can get very warm while sitting in traffic. Tinted windows help to reduce the temperature in the vehicle, which ultimately makes it a more comfortable journey for the customer.
- b) There are a number of vehicles used for executive work. Tinted windows are often used to provide a privacy glass for customers that request this. If no window tinting is allowed, this may cause drivers to lose valuable work.
- c) Police have in the past raised concerns that at night, it becomes very difficult to see if there is a passenger in vehicles with tinted windows. This may cause an issue for public safety.
- d) Most vehicle manufacturers of newer models provide tinted windows as standard and do not provide clear glass as an option for buyers. This limits the vehicles drivers can buy and the cost to change the windows to make them fit the policy could be considerable.

## 7 Considerations

7.1 Members may wish to consider the following:-

- a) Amend the current condition to say that no less than 75% of light must filter through the windscreen, no less than 70% through the front side windows and no less than 'X'% of light must filter through all other windows.
- b) Amend the condition so that no tinting or anything similar that prevents a clear view into the vehicle should be allowed on licensed vehicles.
- c) Only allow vehicles with manufactured glass to be licensed, with no additional tinting to be allowed on the windows.
- d) All vehicles with tinted windows must be either manufactured or professionally applied.

7.2 Any changes to the current Policy must be in consultation with the trade. Officers would allow a minimum of 14 days for responses.

- a) Members are asked to delegate to the Head of Legal Services, where no comments have been received, power to implement the amended Policy within a reasonable time.
- b) If relevant comments are received, a report would be prepared for decision at the next Licensing and Regulation Committee.

## 8 Conclusion

- 8.1 Ultimately, the overriding consideration is the safety of the public, however, any conditions imposed should be reasonable and consideration should also be given to the legitimate concerns of the drivers. It is felt by most in the trade that the current condition is too stringent, as it limits the type of vehicle that can be purchased without incurring too much cost and is likely to result in loss of work.

## OTHER CONSIDERATIONS:

### 9 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

- 9.1 This report relates to ensuring the safety of the public using taxis and private hire vehicles licensed by the Council.

### 10 RESOURCE IMPLICATIONS:

- 10.1 It is anticipated that the cost of implementation will be covered in the existing budget.

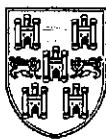
## BACKGROUND DOCUMENTS:

Department for Transport Taxi and Private Hire Vehicle Licensing – Best Practice Guide – 2 March 2010.

Law Commission – Reforming the law of taxi and private hire services – May 2012

## APPENDICES:

Appendix 1            Extract from Hackney Carriage and Private Hire Vehicle Conditions



## Hackney Carriage and Private Hire Vehicle Conditions

These conditions are made under section 47(1) Part II of the Local Government (Miscellaneous Provisions) Act 1976.

The holder of a Hackney Carriage Vehicle Licence or Private Hire Vehicle Licence shall observe and carry out the requirements of the Local Government (Miscellaneous Provisions) Act 1976, Part II and any orders or regulations made thereunder and the requirements of any other Act of Parliament or orders, regulations or byelaws made thereunder relating to motor vehicles.

Any obligation in these conditions not to do any act or thing shall be deemed to include an obligation not to cause or permit that act or thing to be done.

Any reference to any statute or subordinate legislation shall be deemed to include a reference to any amendment or re-enactment.

### Interpretation

In these conditions:-

**"Authorised Officer"** means any officer of the Council authorised in writing by the Council for the purpose of these Conditions.

**"External Licence Plate"** means the Hackney Carriage or Private Hire Vehicle Licence plate issued by the Council that is displayed on the outside rear of the Vehicle.

**"Hackney Carriage"** has the same meaning as in the Town Police Clauses Act 1847.

**"Internal Licence Plate"** means the Hackney Carriage or Private Hire Vehicle Licence plate issued by the Council that is displayed in the Vehicle on the windscreen.

**"Private Hire Vehicle"** means a motor vehicle constructed or adapted to seat fewer than eight passengers, other than a Hackney Carriage or public service vehicle, which is provided for hire with the services of a driver for the purpose of carrying passengers.

**"Taximeter"** means any device for calculating the fare to be charged in respect of any journey in a Hackney Carriage or Private Hire Vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.

**"the Act"** means the Local Government (Miscellaneous Provisions) Act 1976.

**"the Council"** means Winchester City Council.

**"the Driver"** means the person licensed to drive a Hackney Carriage and Private Hire Vehicle under section 51 of the Act.

**“the Licence Holder ”** means the holder of the Hackney Carriage or Private Hire Vehicle Licence.

**“the Operator”** means the person to whom the Council has granted the Private Hire Operator's Licence to which these conditions apply. In the case of a partnership these conditions apply to each of the partners and in the case of a company to each of the company directors.

**“the Vehicle”** means the Hackney Carriage Vehicle or Private Hire Vehicle.

**The Licence Holder must be familiar with the conditions and apply them at all times and upon request make them known to any hirer.**

### **Maintenance and appearance of vehicles**

1. The Vehicle shall be maintained and serviced in accordance with the manufacturer's recommendations.
2. The Vehicle and its fittings must at all times when it is available for hire or being used as a Hackney Carriage or Private Hire Vehicle be safe, clean and tidy. It shall comply with all relevant statutory requirements applicable to the class of vehicle to which the Vehicle belongs including the Motor Vehicle (Construction and Use) Regulations 1978.
3. The Vehicle shall be maintained throughout the term of the Hackney Carriage or Private Hire Vehicle licence, to a high standard of appearance to the complete satisfaction of an Authorised Officer.
4. Any vehicle presented shall be free from any significant areas of visible rusting, dents or scratches to include the following:-
  - (a) **PAINT WORK.** All panels on a vehicle should be in matching colour.
  - (b) **SEATS.** In conventional saloon vehicles where it is intended that the licence should be for four passengers, the rear seat must be at least 50 inches (127cms) in width. All seats have a minimum leg room of 18 inches per passenger and in respect of seating comply with the Road Vehicles Registration and Licensing Regulations 1971. All seats shall be free from cuts, tears or cigarette burns.
  - (c) **CARPETS /FLOOR COVERING.** All carpets and floor coverings shall be complete and free from cuts, tears or serious staining.
  - (d) **HEADLINING AND OTHER TRIM.** All interior trim including headlining, shall be clean, complete, properly fitted and free from serious, tears or major soiling.
  - (e) **INTERIOR.** The interior shall be kept clean, tidy, free from litter and water tight.
  - (f) **BOOT/ LUGGAGE COMPARTMENT.** This shall be kept empty except for spare wheel, essential tools and first aid kit. The compartment shall be clean, tidy and free of any litter or other rubbish. Any covering shall be free from major cuts, tears or other damage or staining.



- (g) WINDOWS. No less than 75% of light must filter through the windscreen and no less than 70% light must filter through all other windows (Regulation 32(10) Road Vehicles (Construction and Use) Regulations 1986).
- (h) WINDOW OPERATION. All passengers, except those occupying a middle seat, must be able to open adjacent windows without difficulty.

### **Mechanical Inspection**

- 5. The Vehicle shall be mechanically inspected by the Council's nominated testing station no earlier than once month prior to a licence being issued.
- 6. The Vehicle shall not be used as a Hackney Carriage or Private Hire Vehicle unless there is a current mechanical inspection certificate and if applicable, an MOT certificate in force in respect of that vehicle, in addition to a current hackney carriage or private hire vehicle licence being in force.

### **Fire Extinguisher**

- 7. A fire extinguisher must conform to the current recognised British Standard and must be carried in the Vehicle at all times.

### **First Aid Kit**

- 8. A first aid kit must be carried within the interior of the Vehicle and be readily available to passengers on request. The first-aid kit must be maintained in full and proper order.

### **Taximeters**

- 9. The Taximeter in any new vehicle or any replacement Taximeter shall be of the calendar type which, when recalibrated cannot be altered by the Driver.
- 10. The Licence Holder shall notify the Council of any replacement Taximeters fitted to the Vehicle.
- 11. The Taximeter should be maintained in good working order at all times and must be inspected and sealed by the Authorised Officer prior to use.
- 12. Whenever the Hackney Carriage fares are amended, the Licence Holder shall ensure that the Taximeter is tested by an Authorised Officer within fourteen days of the change.

### **Signs and Advertising**

- 13. No signs, notices, advertisements, plates, marks, letters figures, symbols, emblems or devices whatsoever (collectively referred to as 'sign') other than those mentioned in paragraph 22) below shall be displayed on in or from the Vehicle.

