

REPORT TITLE: POLICY DEPARTURE FOR DRIVING MISS DAISY LTD

6 SEPTEMBER 2022

REPORT OF CABINET MEMBER: Cllr Jackie Porter, Cabinet Member for Place and Local Plan

Contact Officer: Briony Appletree

Tel No: 01962 848 188 Email licensing@winchester.gov.uk

WARD(S): ALL

PURPOSE

Winchester City Council's Licensing Department has received an application for a private hire operator's licence from Driving Miss Daisy Ltd, a registered company that provides assisted transportation and companionship services for those who require additional assistance due to physical or mental impairment. The vehicles that they provided have technical specification beneficial to those with additional needs that the Council's existing private hire fleet does not provide.

The application from Driving Miss Daisy Ltd was accompanied by a request for the Council to depart from certain elements of its Statement of Licensing Policy ("the Policy") and licence conditions, citing reasons for this and describing why these proposals would not compromise public safety.

As this proposal involves a departure from local policy and conditions for a number of drivers and vehicles, it is considered in the public interest that this decision is made in an open forum by elected Members hence it is being considered by this Committee.

RECOMMENDATIONS:

That Committee

1. Consider the proposal put forward by Driving Miss Daisy Ltd, and agree to depart from the Council's Policy for the company's licensed drivers and vehicles if the Committee concludes that there are exceptional or compelling reasons to do so.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

1.1 Vibrant Local Economy

Driving Miss Daisy Ltd are currently licensed by Portsmouth City Council and based in their district. They plan to move their entire operation to Winchester to be located more centrally in the county, which would bring a new, established business to the district.

1.2 Living Well

By agreeing to license Driving Miss Daisy's drivers and vehicles in the Winchester district, we ensure the availability of additional private hire services for those who are less mobile and rely on this type of service for independence. Without this service, some members of our community would find it more challenging to move around the district and beyond.

1.3 Your Services, Your Voice

1.4 Whilst the Licensing Manager has the delegated authority to depart from the Statement of Licensing Policy and licence conditions, it is considered best in the interests of openness and transparency to debate the subject in open forum and welcome comments from key stakeholders and members of the public through public participation.

2 FINANCIAL IMPLICATIONS

2.1 Departing from sections of the Statement of Licensing Policy and licence conditions does not have any financial impact on the Licensing Department or the Council as a whole.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The legislation that specifically controls the licensing of hackney carriages and private hire vehicles, drivers and operators, does not contain provisions that directly require the Council to prepare and publish a hackney carriage and private hire licensing policy.

3.2 Nevertheless, the Regulators' Code, which has statutory effect by virtue of section 22 of the Legislative and Regulatory Reform Act 2006, means the Council must have regard to the requirements of the Code. The development of a hackney carriage and private hire licensing policy to guide licensing activities will ensure that the council satisfies its legal responsibilities with respect to specific elements of the Regulators' Code and will assist the council in demonstrating that it has had due regard to the Code in relation to this particular area of law.

- 3.3 It is good practice for local authorities to consult on any changes made to the Policy. It is not strictly necessary to consult on any decision made to depart from the Policy, as this is not required by the Policy, but the decision-making process will be held in a public forum where public participation will be welcomed in the interests of openness.
- 3.4 Section 1.4 of the Council's Statement of Licensing Policy with respect to Hackney Carriage and Private Hire Vehicles, Drivers and Private Hire Operators states that 'The Council reserves the right to depart from this Policy if there are, in its reasonable opinion, exceptional or compelling reasons to do so.'
- 3.5 There is no appeal process where the Council decides to depart from its Policy or licence conditions, but Council could be challenged on its decision to depart from the Policy by way of Judicial Review.

4 WORKFORCE IMPLICATIONS

- 4.1 Any appendix or revision to the Policy drafted as a result of the recommendations laid out in this report will be managed within the Licensing Team's current resources.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None.

6 CONSULTATION AND COMMUNICATION

- 6.1 Driving Miss Daisy Ltd approached the Council's Licensing Department prior to submitting any application for private hire licences, to determine whether their proposals to depart from certain sections of the Policy and licence conditions would be considered. A meeting was held between Mr Paul Nuth and the Interim Licensing Manager to discuss the proposals and whether any caused concerns in relation to public safety.
- 6.2 The Interim Licensing Manager had a meeting with Portsmouth City Council's Licensing Manager to discuss Driving Miss Daisy Ltd and their current operation. The business is currently licensed in the Portsmouth District and the Licensing Manager advised that no concerns or issues had been raised about their driver, vehicle or operator licences during her time in recent years. Portsmouth City Council will work cooperatively with Winchester City Council's Licensing Department to ensure a smooth licensing process and exchange of any key information.
- 6.3 Driving Miss Daisy Ltd also met with Cllr Hannah Williams (Chairperson of the Licensing and Regulation Committee) and Cllr Jackie Porter (Cabinet Member for Place and Local Plan) on 1 September 2022 to discuss the proposals and answer any queries or concerns they may have in advance of putting their formal proposal forward to the Council.

- 6.4 Details of the proposal were shared with Cllr Paula Ferguson (Cabinet Members for Community and Housing) and Cllr Russell-Gordon-Smith (Cabinet Member for Service Quality) in advance of this report's publication.
- 6.5 Cllr Ferguson provided the following response to the proposals: *"I think as long as we make it/made it very clear why we are allowing this exception then I am happy to support the policy being varied for a small number of vehicles."*

Having been at the 10th Disability Games at WSLP this afternoon where over 150 individuals with a wide range of needs and disabilities competed, ensuring this group of people have access to suitable taxis enforces why we should facilitate this additional capacity."

- 6.6 Cllr Gordon-Smith was unable to respond to the proposals prior to the report publication deadline.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 Driving Miss Daisy Ltd propose to license a number of private hire vehicles that exceed the Council's current age limits for vehicles when first licensed. These vehicles are currently licensed by Portsmouth City Council.
- 7.2 Section 6.1 of the Council's Policy stated that all petrol and diesel vehicles, when licensed for the first time must be less than five years from the date of first registration. For hybrid and electric vehicles, this is extended to less than eight years from the date of first registration.
- 7.3 This proposal was introduced during the Council's review of the Policy in 2020 with an aim to improve air quality in the district and ensure that vehicles in satisfactory condition at the point of first licensing.
- 7.4 Driving Miss Daisy Ltd have offered to provide a comprehensive history for all of their vehicles, including MOT, service reports and inspection sheets from Portsmouth City Council's approved testing station.
- 7.5 It is proposed that the Council departs from its policy regarding the age of vehicles at the point of first licensing, only for Driving Miss Daisy's vehicles that are currently licensed by Portsmouth City Council. Any further vehicles will be subject to the same age restrictions as all other vehicles in Winchester.
- 7.6 It is further proposed that any vehicle licensed by Driving Miss Daisy Ltd is still subject to the upper age limits for licensed vehicles specified in the Policy, i.e. a maximum end of working life age of twelve years for petrol/diesel, and fifteen years for hybrid/electric. This will ensure that older vehicles are not indefinitely licensed and will contribute to the Council's carbon neutrality goals, with impact on air quality being restricted to the short-term.
- 7.7 Whilst it is recognised that Driving Miss Daisy's older vehicles will have an impact on the Council's carbon neutrality goals, it is important to note that they only provide vehicles with a significantly higher standard of accessibility

than the Council's current licensed private hire vehicles. On balance, the improvements in the availability of specialist accessible transport outweigh the short-term adverse impact on air quality.

8 PUBLIC SECTOR EQUALITY DUTY

8.1 The Council is committed to offering a range of vehicles for all customers. The current Policy requires all new hackney carriage vehicles to be wheelchair accessible, but does not require private hire vehicles to be wheelchair accessible.

8.2 At the time of writing, the Council licenses only four wheelchair accessible private hire vehicles. None of these are equipped with powered winches, which restricts their ability to carry heavier wheelchairs.

8.3 Driving Miss Daisy Ltd proposes to license only wheelchair accessible vehicles, with additional technology such as powered winches to ensure accessibility for far more individuals than the current private hire fleet can facilitate. The business have invested substantial amounts of money to make their vehicles comfortable, accessible and fit for purpose.

8.4 The proposals to depart from sections of the Policy and licence conditions will contribute to the Council's duty to eliminate discrimination, advance equality of opportunity and foster good relations between different people.

8.5 An Equality Impact Assessment can be found at Appendix 3.

9 DATA PROTECTION IMPACT ASSESSMENT

10 Departing from sections of the Policy and licence conditions does not involve any additional collection or retention of personal data beyond that covered by the Council's existing data protection impact assessment.

11 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure		
Exposure to challenge	<p>The process to depart from the Council's policy could be challenged by Judicial Review, but as the Council's decision making process is lawful, a successful challenge is considered unlikely.</p> <p>Should the Council opt to not depart from the</p>	

	Policy, Driving Miss Daisy Ltd could still submit driver and vehicle applications. In the event that these were refused, there would be a right of appeal to Magistrates Court within 21 days' of such refusal.	
Innovation		Driving Miss Daisy Ltd's vehicles include technology that is not currently required by the Council's Policy, including powered winches to enable the safe loading of heavy wheelchairs and passengers. This additional technology will benefit those customers who cannot access fit-for-purpose transport.
Reputation	By departing from sections of the Policy to permit the licensing of adapted, accessible vehicles for those who need them, the Council demonstrates a commitment to providing essential services to the public without comprising public safety.	Opportunity to make more accessible vehicle available in the Winchester district, which may benefit residents, NHS patients, those living in residential or assisted living facilities and anyone else requiring specialist transport to enable them to live independently.
Achievement of outcome	The Council will consider requests to depart from the Policy and licence conditions where an applicant asserts that there are exceptional or compelling reasons to do so.	
Property	N/A	
Community Support		
Timescales	Any decision to depart from the Policy and licence conditions will	

	<p>come into effect on the day that that decision is made by the Licensing and Regulation Committee.</p> <p>Driving Miss Daisy Ltd will be welcomed to submit applications on the basis that the relevant departures from the Policy and licence conditions have been agreed.</p> <p>Any issues arising from the department of the Policy and licence conditions may prompt a review of the decision made and any licences issued on this basis.</p>	
Project capacity	N/A	
Other	N/A	

12 SUPPORTING INFORMATION:

Background

- 12.1 Driving Miss Daisy Ltd is a UK-based registered company, operating since 2015 providing transport and companionship services to the public.
- 12.2 In addition to working in partnership with the NHS to provide safe and reliable non-emergency patient transport, they work with care homes, special schools and other healthcare settings to ensure patients and residents have the opportunity to travel without relying on Government schemes or family members.
- 12.3 Vehicles operated by Driving Miss Daisy Ltd feature brightly coloured livery which has clinical benefits such as enabling vulnerable customers to easily identify a trusted and safe method of transport, and ensures consistency for customers with additional needs. The vehicles are all wheelchair accessible with room for additional passengers such as carers or family members.
- 12.4 Drivers working for Driving Miss Daisy Ltd are licensed by the relevant local authority for private hire work, and also undertake emergency first aid training, safeguarding awareness courses and Dementia Friend training. A medical

advisory panel is available to discuss specialist requirements to ensure that all customers' needs are met where possible.

- 12.5 Driving Miss Daisy Ltd are currently licensed by Portsmouth City Council. They propose to move their operation to the Winchester district so that they are more centrally located in Hampshire, and have proposed an operating base in Wickham. The Licensing Department have already engaged with Portsmouth City Council to ensure that relevant information relating to complaints or non-compliance is shared to aid in determining application, and that any relevant documents such as vehicle inspection reports are transferred to Winchester securely.

Proposals

- 12.6 Driving Miss Daisy Ltd have made a number of proposals to depart from the Policy and licence conditions, citing reasons for these. Where there is potential for risk to public safety, mitigating information has been provided and Members must be satisfied that this is sufficient prior to agreeing to depart from the Policy.
- 12.7 The proposals are outlined in Appendix 1, complete with justification and mitigation, and summarised below.

Vehicles

- 12.8 Some of Driving Miss Daisy's current vehicles exceed the age limits specified in the Policy for when the vehicle is first licensed (i.e. no older than 5 years for petrol/diesel vehicles). They have requested that the Council consider waiving this age limit for vehicles licensed by them, taking into consideration that all vehicles are maintained to an excellent standard with MOTs, service history and Portsmouth City Council's annual inspection reports all available to demonstrate this.
- 12.9 It is important to clarify that Driving Miss Daisy's request to license older vehicles does not compromise public safety; older vehicles are not necessarily unsafe vehicles, and any vehicle licensed by Winchester City Council must produce an annual MOT certificate and inspection report from an approved testing station. This requirement will apply to Driving Miss Daisy's vehicles.
- 12.10 Driving Miss Daisy's vehicles feature bright blue livery with a daisy print, designed for clinical reasons to assist clients in safely identifying trusted vehicles. The company does not undertake 'on demand' engagements, all journeys must be pre-booked well in advance with a comprehensive risk assessment undertaken. They have requested to be exempted from the requirement to display Winchester City Council door signs, as these would obscure their branding and indicate to the public that they are available for 'on demand' hire.

- 12.11 It is worth noting that the Council already exempts a number of vehicles in the district from the requirement to display Winchester City Council door signs, where the licence holder has provided evidence that there are exceptional circumstances that support this; i.e. transporting corporate or celebrity clients. Exemption requests are considered by the Licensing Manager and granted at their discretion.
- 12.12 The company has also requested to be exempted from the vehicle condition that prohibits symbols and emblems from being displayed on the vehicle (other than those required by law) as their branding includes daisy emblems.
- 12.13 Driving Miss Daisy's vehicles, currently licensed by Portsmouth City Council, are not required to display external licence plates on the rear of the vehicle. The company has requested that this exemption is also permitted by Winchester City Council, primarily because they do not undertake 'on demand' work and taxi plates are widely recognised by the public as meaning that a vehicle is available for public hire. Where a rear licence plate is not displayed, a wallet-sized card showing the licence number is displayed in the bottom-right corner of the windscreen and an exemption letter is carried in the vehicle at all times.

Drivers

- 12.14 All of Driving Miss Daisy's drivers are currently licensed by Portsmouth City Council, with their licensing process requiring a valid Disclosure and Barring Service (DBS) certificate every three years. Winchester City Council already accepts existing DBS certificates from other authorities where the applicant can demonstrate that they are signed up to the DBS Update Service and that there have been no changes to their DBS certificate since its issue date. Winchester City Council will apply this approach to Driving Miss Daisy's drivers, ensuring a consistent approach with other applicants.
- 12.15 Portsmouth City Council also require all licensed drivers to undergo a medical examination, based on the same level of medical fitness as Winchester City Council requires, as per the DVLA Group 2 Medical Standards of fitness to drive. Driving Miss Daisy proposes for Winchester City Council to accept existing, valid medical examination reports from their drivers applying to Winchester for a licence.

Conclusion

- 12.16 The Council has reviewed all proposals from Driving Miss Daisy and considered any risk to public safety (detailed in Appendix 1). It has carefully considered mitigation offered by Driving Miss Daisy, and also liaised with Portsmouth City Council regarding any concerns that they have about the company's operation.
- 12.17 Portsmouth City Council have advised that there is no complaints data on their system in relation to Driving Miss Daisy's operation.

- 12.18 The Licensing Department considers the risks to public safety as a result of the proposals be negligible, particularly considering the extensive mitigation provided and the Council's duty to reconsider whether a licence should be issued in cases where concerns regarding public safety are raised.
- 12.19 It is considered that the short-term adverse impact on air quality in the district as a result of licensing older vehicles is, on balance, outweighed by the improvement to accessibility in the Council's private hire fleet.
- 12.20 The Council has a number of options, both in Policy and in the relevant legislation, to take action in the event that any driver, vehicle proprietor or operator is no longer fit to hold a licence. A departure from the Policy is not a departure from the requirement to undertaken enforcement action if required.

13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 The Council may opt to offer no special consideration to Driving Miss Daisy and the way that it operates, choosing instead to require the company to comply with all Policy points and driver and vehicle conditions. However, the Policy specifically includes the provision for departures from the Policy for these circumstances.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

LR535: [Review of Hackney Carriage and Private Hire Policy Phase 2](#)
Tuesday 15 September 2020

LR560: [Taxi Policy Review](#)
Tuesday 7 June 2022

Other Background Documents:-

- Driving Miss Daisy: [Website](#)
- Hackney Carriage and Private Hire Vehicle Conditions
- Hackney Carriage & Private Hire Drivers Conditions

APPENDICES:

1. Policy Departure Proposals for Driving Miss Daisy Ltd
2. Proposal submitted by Driving Miss Daisy Ltd
3. Equality Impact Assessment (draft)