

**LICENSING AND SAFETY COMMITTEE  
08 FEBRUARY 2010**

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**AGE OF VEHICLE LICENCE CONDITION  
(Chief Officer: Environment and Public Protection)**

**1 PURPOSE OF DECISION**

- 1.1. The Council has an Age of Vehicle licence condition with discretion to continue to license a vehicle beyond the age limit where the vehicle is in “exceptional condition” **and** has travelled an” abnormally low mileage.”
- 1.2 In November a Hackney Carriage owner appealed to the Magistrates’ Court against the Council decision to revoke a licence upon our Age of Vehicle condition. The Magistrates’ Court, in upholding the appeal, commented that there was a lack of clarity of the terms “exceptional condition” and “abnormally low mileage” within the relevant licence condition. Taking these comments into account officers have sought to give greater clarity on these terms so that there is more transparency for the taxi trade, officers and members when such decisions are called upon to be made in the future.

**2 RECOMMENDATIONS**

**That the Committee**

- (i) **formally authorise the consultation process to define the terms “exceptional condition” and “abnormally low mileage” which are included within the Age of Vehicle licence condition for hackney carriages and private hire vehicles.**
- (ii) **adopt annex 4 to this report as the initial consultation document**
- (ii) **Following completion of the consultation to end on the 5 April a report to be brought to the next Licensing and Safety Committee on the 29 April summarising the results of the consultation together with a recommendation to consider.**

**3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

Borough Solicitor

- 3.1 The Borough Solicitor is satisfied that the relevant legal provisions are contained within the body of the report.

Borough Treasurer

- 3.2 The Borough Treasurer is satisfied that no significant financial implications arise from this report.

Equalities Impact Assessment

- 3.3 There are no equalities impacts identified within this report.

## Strategic Risk Management Issues

- 3.4 The Council has an age condition which, according to a bench of Magistrates, lacks clarity on the terms “exceptional condition” and “abnormally low mileage”. There is a risk that another court will reach the same conclusion and uphold an appeal by a taxi owner. This will incur costs awarded against the Council, and leave the Council with an age condition introduced to protect the interests of consumers that is no longer viable or enforceable.

## **4 SUPPORTING INFORMATION**

- 4.1. The Council has had an age of vehicle condition for hackney carriages and private hire vehicles for a number of years. This condition was introduced to ensure that customers travel in vehicles that provide a high standard of safety, reliability, comfort and appearance. In recent years a further important factor has been CO<sub>2</sub> emissions from vehicles and taxis which given their high mileage are a major contributor. Regular replacement helps to reduce these emissions due to frequent advances in emission technology.
- 4.2. The current Age of Vehicle condition was agreed by the Hackney Carriage Sub Committee at its meeting on 2 December 1998. The condition is contained within the Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers as follows

### **10. Age of Vehicle**

**10.1 A vehicle submitted for initial licensing must be less than 5 years old or, If wheelchair accessible, less than 4 years old from date of first registration. The maximum age a vehicle that may continue to be licensed is 8 years from date of first registration for saloon and estate vehicles and 10 years for a purpose-built Hackney Carriage.**

**10.2 In cases where a vehicle has done an abnormally low mileage and is in exceptional condition, it may, on application, be granted an extension on the age limit. Such an extension may be subject to certain conditions.**

- 4.3 A vehicle owner may apply for an extension to officers who have delegated authority to grant such an extension where they are of the view that the vehicle meets the “exceptional condition” and “abnormally low mileage” criteria. An officer would examine the vehicle and make a decision based upon their knowledge and experience of the condition and use of licensed vehicles within Bracknell Forest. If officers reject the application there is an appeal process to the Licensing Panel. The case in question heard by Magistrates had gone through this process.
- 4.4. This condition was the subject of examination by East Berkshire Magistrates on the appeal case. After hearing evidence from the Council and the Applicant, the Court was of the opinion that the terms “exceptional condition” and “abnormally low mileage” within 10.2 were not clear in their meaning and understood by all parties concerned. In view of this the Court decided that they would uphold the appeal in favour of the taxi owner.
- 4.5. It is therefore essential that the term “exceptional condition” and “abnormally low mileage” are clearly defined when applied to hackney carriages and private hire vehicles when working within Bracknell Forest. Officers have drawn up a document (Annex 4) defining these terms as they could be used by officers, members and

vehicle owners in judging whether a vehicle is suitable to be granted an extension upon the age limit condition.

- 4.6. Annex 1 comprising of an accompanying letter and draft criteria was sent to all private hire operators and representatives of the Bracknell Licensed Taxi Forum on the 17 December to seek their views on the content and use of such a document. Responses were required to be received at this office by 15 January 2010 to be included within this report. Written responses to this letter are attached as Annex 2 and 3. After consideration of those responses and discussions with the Chairman a further document was drafted, Annex 4, which is the subject of the recommendation.
- 4.7. It is recommended by officers that the document attached as annex 4 is adopted by the Committee to initiate a formal consultation process with all owners of hackney carriages and private hire vehicles licensed within Bracknell Forest. Initial views and comments have been sought within the present process with the original document altered and officers are in continuing discussions with members of the BLTF on clarification of the content of the document. It is proposed that the formal consultation process shall start prior to the 22 February and close on the 5 April to enable sufficient time for full views to be sought with all possible persons that maybe affected and a report prepared to be brought back to this committee on the results at its meeting on the 29 April.

#### Background Papers

Limitation on Vehicle Age – Hackney Carriage Sub-Committee 2 December 1998.

#### Contact for further information

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#### Doc Ref

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