

REGULATORY COMMITTEE

At a meeting of the Regulatory Committee on Wednesday, 12 October 2022 in the Council Chamber - Town Hall, Runcorn

Present: Councillors Wallace (Chair), Abbott (Vice-Chair), D. Cargill, Dourley, Fry, Loftus, A. McInerney, G. Stockton and Woolfall

Apologies for Absence: Councillor Wainwright

Absence declared on Council business: None

Officers present: K. Hesketh, K. O'Brien and L. Wilson-Lagan

Also in attendance: None

ITEMS DEALT WITH UNDER DUTIES EXERCISABLE BY THE COMMITTEE

		<i>Action</i>
REG1	MINUTES	
	<p>The Minutes of the meeting held on 6 October 2021 having been circulated were signed as a correct record.</p>	
REG2	TAXI LICENSING POLICY AMENDMENTS	
	<p>The Committee considered two matters. The first was the adoption of a condition relating to Passenger Carrying Vehicles as recommended by the Department for Transport in its guidance on "Statutory Taxi and Private Hire Vehicle (PHV) Standards". The guidance provides that public safety is to be of paramount consideration in discharging licensing functions and sets out a number of recommendations that the Department expects to be implemented, unless there is a compelling local reason not to.</p> <p>A Private Hire Vehicle is a "motor vehicle constructed or adapted to seat fewer than 9 passengers". Where a larger vehicle was required, such as a minibus, bus or coach, this was known as a Passenger Carrying Vehicle or PCV. PCVs were subject to a different licensing regime. Some Private Hire Operators held PCV licences or subcontract bookings to PCV licence holders where a PHV is unsuitable. In these circumstances, neither the driver nor the vehicle would have been licensed with the Council despite the passenger having booked through a Private Hire Operator which was licenced</p>	

with the Council.

So that the customers were aware of this, the following condition was recommended:-

A private hire operator must not provide (to include sub-contract) a vehicle that is able to carry more than 8 passengers without first obtaining written or verbal consent of the hirer. The hirer must be made aware that neither the vehicle, nor the driver (where applicable) are licensed by Halton Borough Council and as such are subject to different checks. The hirer must also be informed that the driver is not required to have an enhanced DBS check. Verification of consent must be kept for a period as stated in 2.2 of these conditions.

Members were advised that the consultation exercise had produced no relevant responses.

In respect of the second matter, a request to extend the temporary vehicle policy amendment, relaxing the maximum age restriction on Hackney Carriage and Private Hire Vehicles, for a further period of time had been received from the Trade.

The temporary policy amendment came into force on 26 February 2021 to ease the economic pressures experienced by the trade following the pandemic. It extended the maximum age of non-fully wheelchair accessible vehicles to 12 years old and of fully wheelchair accessible vehicles to 18 years old, subject to two conditions requiring the vehicle benefiting from the extension to have 3 tests per year and on the basis that no vehicle taking advantage of the dispensation may be transferred to another proprietor. These conditions were imposed to mitigate any safety risks to the public bearing in mind the overriding consideration of protecting the public.

The temporary amendment is due to expire on the 25 February 2023 but the economic circumstances have not improved with the current cost of living crisis.

An update was provided on the public consultation exercise which had expired earlier in the day. No responses had been received. The majority of the feedback from the Trade supported the extension.

RESOLVED: That

- 1) the following new Private Hire Operator Condition be

adopted:-

- a. "A private hire operator must not provide (to include sub-contract) a vehicle that is able to carry more than 8 passengers without first obtaining written or verbal consent of the hirer. The hirer must be made aware that neither the vehicle, nor the driver (where applicable) are licensed by Halton Borough Council and as such are subject to different checks. The hirer must also be informed that the driver is not required to have an enhanced DBS check. Verification of consent must be kept for a period as stated in 2.2 of these conditions."
- 2) the temporary Vehicle Policy amendment extending the maximum age of licensed Hackney Carriage and Private Hire Vehicles be extended for a further period of 2 years (i.e. until 25 February 2025) subject to the same two conditions requiring any vehicles benefiting from the extension to undergo 3 tests per year and on the basis that no vehicle taking advantage of the dispensation may be transferred to another proprietor.

REG3 TAXI LICENSING MATTERS

The Committee considered two matters. The first was the introduction of a vehicle licence condition requiring the display of a customer feedback notice in vehicles licensed with the Council. The Committee and the Executive Board had already approved an amendment to the Vehicle Licence Policy which required that:-

"Every licensed hackney carriage and private hire vehicle is required to permanently display in a prominent location for the customer a feedback notice (compliments and complaints) as provided by the licensing section".

The change of policy should have been accompanied by a vehicle licence condition so that it could be enforced by the Licensing Department. As such, it was recommended that the following condition be inserted into the Hackney Carriage Vehicle Licence Conditions and the Private Hire Vehicle Licence Conditions under the heading "Signs and Advertisements":-

- (i) *"The Licence Holder shall ensure that before driving a licensed Hackney Carriage [or private hire vehicle] or renting a vehicle to a licensed Hackney Carriage*

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driver [or private hire vehicle] that the customer feedback notice, issued by the Council, is displayed in the vehicle in a prominent location so that it can be seen by all passengers.”

In respect of the second matter, the Committee’s approval was sought to amend the Council’s Policy on Professional Standards. The suggested amendment was not to the substantive policy itself but to the “background information” which misquoted the law on the burden of proof. At paragraph 10 on page 2 of the Policy, it was incorrectly stated that when a licence is reviewed, the burden shifts from the licence holder to the Council to prove that the licence holder is a fit and proper person. There had been some confusion in the legal authorities as to who bore the burden of proof in these circumstances but the correct position is set out in the leading case of R (Hope & Glory Public House Limited) v Westminster Magistrates’ Court and Another [2011] EWCA Civ 31. The recommendation was that the offending part of the sentence “*except when reviewing a licence then the burden of proof reverts to the Council*” was removed so that the sentence reads:-

“It is the requirement of the applicant to prove that they are a fit and proper person”.

RESOLVED: That

- 1) a vehicle licence condition requiring the display of a customer feedback notice in vehicles licensed with the Council is adopted; and
- 2) there be an amendment to the Policy on Professional Standards to reflect the correct legal position on the burden of proof.

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REG4 TAXI LICENSING UPDATE

The Committee considered a report summarising the decisions taken by the Taxi Licensing Sub-Committee and the urgent decisions taken by the Chief Executive under delegated powers.

RESOLVED: That the contents of the report be noted.

Meeting ended at 7.10 p.m.