

## **CONTRACT VEHICLE LICENSING**

### **1 SUMMARY**

- 1.1 Members to consider licensing conditions for vehicles formerly licensed by the Traffic Commissioner which now come under the jurisdiction of Local Authority licensing following the introduction of the Transport Act 2000.

### **2 INTRODUCTION**

- 2.1 The introduction of the Transport Act 2000 (Section 265) included legislation to stop the use of vehicles having less than nine passenger seats as small Passenger Carrying Vehicles (PCVs) unless that use:
- a) related to stage carriage on a route registered with the Traffic Commissioner at separate fares
  - b) was in respect of journeys in excess of fifteen miles between pick-up and destination, again at separate fares
  - c) was a small part of a large bus operation
- 2.2 No definition of a percentage of the total fleet strength has been given for determining 'a small part' as specified in (c) above but a general guide of 10% has been given (Rupert Cope, DETR).
- 2.3 Council considered the implications of the new Act at Transport Sub-Committee on 6 September 2001, when revision of the Pre-Licensing Standards and Licensing Conditions for Private Hire Vehicles was approved.
- 2.4 Information provided by the Trade indicated vehicles then operating under the jurisdiction of the Traffic Commissioner were principally dedicated to contract work with many used for carrying passengers with special needs. Consequently, those vehicles were unlikely to comply with the Council's various Standards and Conditions.
- 2.5 Derogation was granted until 30 June 2002 to allow those vehicles transferring from the Traffic Commissioner's jurisdiction to be licensed, subject to mechanical compliance, safety considerations and general condition, although not necessarily fully compliant with the Council's Pre-Licensing Standards and Licence Conditions for Private Hire Vehicles. This derogation was further extended to 31 October in order to include this category of vehicle in the Review.

- 2.6 An approach was made by a Company trading in the area to licence such vehicles as Hackney Carriages rather than Private Hire Vehicles and this was accepted by Council.

### **3 FURTHER CONSIDERATIONS**

- 3.1 The introduction of Section 265 of the Transport Act 2000 has made the operation of vehicles having less than nine passenger seats for hire and reward illegal unless compliant with those exceptions specified in Paragraph 2.1 (a)-(c) above.
- 3.2 No formal applications have been received to licence any vehicles previously operating under the jurisdiction of the Traffic Commissioner under the terms of the Derogation given on 6 September 2001 and now subsequently extended.
- 3.3 The Applicant does not wish to licence such vehicles under the existing derogation for the reasons detailed below:
- (a) Drivers used by the Company hold Hackney Carriage Driver Licences; few hold Private Hire Driver Licences
  - (b) The Company 'logo' includes the word 'taxi' that is precluded from display on a Private Hire Vehicle by National Legislation and Council Conditions
  - (c) The Company alleges the use of a Private Hire Vehicle in certain (undefined) circumstances would be illegal whereas this would not apply in respect of a Hackney Carriage.

### **4 ASSESSMENT OF REQUEST**

- 4.1 Licence Plates are granted in respect of Hackney Carriages to provide a service within the Council District with the ability to ply for hire in the street and operate from Taxi Ranks.
- 4.2 The Licence Application Form includes the following Certification that the Proprietor of the Hackney Carriage is required to sign.
- (a) that the taxi will be available for business at all reasonable times
  - (b) I/the Company will be in direct control of the day-to-day running of the taxi/and be a full time driver (latter part now under review).
  - (c) I/the Company will be in charge of the daily operation of the taxi business
- 4.3 The Company has previously advised that those vehicles used to meet special needs are not suitable for use by the general public and this is accepted.

- 4.4 The Company states in a letter dated 17 January 2002 that those vehicles it requires to be licensed as Hackney Carriages would never be used as general purpose taxis. Consequently it should not be required to install a taximeter or roof sign.
- 4.5 The Company requests the Council amend the Pre-Licensing Standards and Conditions to permit it to operate vehicles as Hackney Carriages with a special category without taximeters and roof signs.

## **5 CONCLUSION**

- 5.1 The Council has previously deliberated on licensing vehicles that were previously operated under the jurisdiction of the Traffic Commissioner.
- 5.2 Derogation has already been given within the Pre-Licensing Standards and Conditions for Private Hire or Hackney Carriages.
- 5.3 The Council already extends Hackney Carriage Driver Licences to include Private Hire on request and a Dual Badge is issued. The Company is aware of this facility and many of its existing Drivers do actually hold Dual Badges including the Company Directors.
- 5.4 The issue of Hackney Carriage Plates in respect of vehicles not intended to function as Hackney Carriages could be construed as an inappropriate issue of Plates and be open to legal challenge from others within the Taxi Trade. In the normal course of events, this type of vehicle would be expected to be licensed as Private Hire which is the case in most other licensing authorities.
- 5.5 The Company has a legal duty to ensure its vehicles used for hire and reward are correctly licensed. If it cannot meet the exceptions allowed within the legislation it has one further option to provide a dedicated vehicle to a specific contract, and to use that vehicle for no other purpose. This can only occur if the contract is for a period exceeding seven days (see Local Government (Miscellaneous Provisions) Act 1976, Section 75). Any vehicle operating on a specific contract only basis should be specified in the Contract to comply with this particular legislation.
- 5.6 A private hire vehicle once pre-booked can go anywhere. This has been tested in the Courts. The question to be asked in the issue of a Contract is whether the Hirer invited to Contractor to tender or the Contractor approached the Hirer – in which case there is an invitation to book, possibly made outside the District in which the Hirer is licensed.

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5.7 The Head of Service fully appreciates the concerns of the firm, and how a change to operating in a private hire environment will cause the company some expense to re-livery their vehicles by removing the words 'Taxi' which currently appears under the company logo. Nevertheless, he believes that the conditions relating to Hackney Carriages cannot be circumvented and the vehicles will need to be:-

- (1) operated in a Private Hire environment without the need for taximeter or signage (and without the word TAXI appearing anywhere on the vehicle).
- (2) Operated in a Hackney Carriage environment with an operating taximeter and signage.

5.8 At a recent meeting of the Essex Licensing Officers the Head of Service canvassed views from other delegates who confirmed that where they licence this type of vehicle, it is always as a Private Hire Vehicle.

## **6 RECOMMENDATION**

That Members determine the category in which this type of vehicle be licensed. (HRHM)

S J Clarkson

Head of Revenue and Housing Management

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### **Background Papers:**

Correspondence from Applicant Company

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