

Agenda

Environment and Licensing Committee

Date: **Tuesday 22 March 2022**

Time: **4.15 pm**

Place: **Council Chamber**

For any further information please contact:

Democratic Services

committees@gedling.gov.uk

0115 901 3844

Environment and Licensing Committee

Membership

Chair Councillor Marje Paling

Vice-Chair Councillor Nicki Brooks

Councillor Pat Bosworth
Councillor Rachael Ellis
Councillor Des Gibbons
Councillor Julie Najuk
Councillor Alex Scroggie
Councillor Martin Smith
Councillor Sam Smith
Councillor Clive Towsey-Hinton
Councillor Paul Wilkinson

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AGENDA

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- 3 Declaration of Interests.**
- 4 Changes to officer delegations.** 9 - 18
Report of the Democratic Services Manager.
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Report of the Head of Environment.
- 6 Any other item which the Chair considers urgent.**

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MINUTES ENVIRONMENT AND LICENSING COMMITTEE

Tuesday 8 March 2022

Councillor Marje Paling (Chair)

Present: Councillor Nicki Brooks Councillor Alex Scroggie
Councillor Sandra Barnes Councillor Martin Smith
Councillor Pat Bosworth Councillor Clive Towsey-Hinton
Councillor Rachael Ellis Councillor Paul Wilkinson
Councillor Des Gibbons

Absent: Councillor Julie Najuk and Councillor Sam Smith

Officers in Attendance: C Allcock, P Gibbs, B Hopewell, K Nealon and S Palmer

26 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies for absence were received from Councillors Najuk and Sam Smith. Councillor Sandra Barnes attended as substitute.

27 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 8 FEBRUARY 2022

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

28 DECLARATION OF INTERESTS.

None.

29 ADOPTION AND IMPLEMENTATION OF ANTI-IDLING LEGISLATION

The Head of Environment introduced a report, which had been circulated in advance of the meeting, seeking approval for the introduction of anti-idling legislation as laid down by the Road Traffic Regulations 2002.

RESOLVED to:

- 1) Approve and authorise the implementation and enforcement of provisions relating to anti-idling as laid down by the Road Traffic Regulations 2002; and

- 2) Grant delegated authority to the corporate director to authorise relevant officers or persons to stop the commission of stationary idling offences and issue fixed penalty notices in respect of such offences, in accordance with Regulation 6(3) of the Road Traffic Regulations 2002.

Councillor Barnes joined the meeting.

30 UPDATE OF BYELAWS RELATING TO ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN-COLOURING, COSMETIC PIERCING AND ELECTROLYSIS

The Food, Health and Housing Manager introduced a report, which had been circulated in advance of the meeting, seeking approval to commence consultation with all local businesses likely to be affected by the adoption of consolidated model byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis and, subject to consideration of consultation responses, seek approval from members to refer the byelaws to full council for the byelaws to be made under seal and referred to the Secretary of State for the Department of Health for the byelaws to be confirmed.

RESOLVED to:

- 1) Approve the draft byelaws at Appendix A to the report to go out to consultation;
- 2) Authorise the Head of Environment in consultation with the Chairman of the Environment and Licensing Committee to assess responses from the consultation to determine whether the byelaws need to be referred back to the Environment and Licensing committee prior to adoption;
- 3) Authorise the Head of Environmental Services in consultation with the Chairman of the Environment and Licensing Committee to make any minor amendments to the byelaws following consultation and prior to referral to full Council for making; and
- 4) Subject to the results of the consultation, recommend the byelaws at Appendix A to the report, with any minor amendments necessary, be referred to Council and to be made under seal.

31 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

32 EXCLUSION OF THE PRESS AND PUBLIC.

RESOLVED:

That, the Members being satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information

that under Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during the consideration of the ensuing reports on the grounds that the report involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

33

APPLICATION FOR A THREE YEAR JOINT HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - IF

Consideration was given to a report of the Head of Environment, which had been circulated prior to the meeting, regarding an application for a three year joint Hackney Carriage/Private Hire Driver's Licence for IF.

IF did not attend the meeting.

RESOLVED:

To defer consideration of the application until the next available meeting to give IF another opportunity to appear before the Committee.

The meeting finished at 4.50 pm

Signed by Chair:

Date:

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Report to Environment and Licensing Committee

Subject: Changes to the delegation scheme following the adoption of the new constitution

Date: 22 March 2022

Author: Democratic Services Manager

Purpose

To seek approval to amend all current delegations previously approved by Environment & Licensing Committee following the adoption of the new constitution.

Recommendations

THAT:

- 1) The officer delegations at Appendix 1 be approved;
- 2) The Monitoring Officer be authorised to make any other necessary administrative amendments to reflect the change to the constitution.

1 Background

- 1.1 On 3 March 2022 full council agreed the adoption of a newly re-written constitution taking affect from 4 March 2022. The new constitution was a result of several meetings of a cross party working group along with officers who came together to review the effectiveness of the constitution.
- 1.2 As part of the review of the constitution, a review of the schemes of delegation was conducted; which have now been updated to reflect the correct management arrangements and delegations.
- 1.3 With the exception of the above, the only other minor amendment is to remove the requirement for consultation with the Chair of the Environment and Licensing Committee to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has no previous convictions or cautions.

2 Proposal

It is proposed that the amended officer delegations set out in Appendix 1 be approved.

3 Alternative Options

Not to amend the delegations but this will lead to lack of clarity about which Officer has the power to act.

4 Financial Implications

None arising from this report.

5 Legal Implications

5.1 Officer delegations in respect of non-executive functions are made under the powers contained in Section 101 of the Local Government Act 1972 (as amended) and with reference to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

5.2 If the officer delegation scheme is not updated it will lead to lack of clarity over who can make decisions. This could in turn lead to risk of legal challenge.

6 Equalities Implications

There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

There are no carbon reduction/environmental sustainability implications arising from this report.

8 Appendices

Appendix 1 – Non-Executive scheme of delegations to officers

9 Background Papers

None.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

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Environment & Licensing officer delegations

Licensing Matters – Gambling Act 2005			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
L1	Authority to appoint authorised persons under Section 304 of the Gambling Act 2005	Director	

Environment and Licensing Matters - General			
Ref No.	Function	Authorised Officer	Consultation/ Limitation
EL1.	<p>Power to approve and vary licence conditions, approve and issue licences, registrations, certificates and authorisations in the following matters:</p> <ul style="list-style-type: none"> a) Certificates of Registration of premises for acupuncture, tattooing, ear piercing and electrolysis (Local Government (Miscellaneous Provisions) Act 1982. b) Licences and renewals of licences in respect of: <ul style="list-style-type: none"> i) Keeping a riding establishment (Riding Establishment Act 1964 and 1970). ii) Keeping an animal boarding establishment (Animal Boarding Establishment Act 1963); iii) Keeping pet shop (Pet Animals Act 1951); iv) Game dealer licences and licence to sell game; v) Public Entertainments (Local Government (Miscellaneous Provisions) Act 1982; vi) dog breeding. (Breeding of Dogs Act 1973); vii) dangerous wild animals. (Dangerous Wild Animals Act 1976); viii) massage and special treatments; ix) late night refreshment houses; x) caravan sites (Caravan Sites and Control of Development Act 1960); xi) cinemas and theatres; xii) Private places of entertainment (Licensing) Act 1967; xiii) food premises (Food Safety Act 1990); and any Order or Regulations or other instruments made thereunder or having effect by virtue of the European Communities Act 1972 and relating to 	Director	

Environment and Licensing Matters - General

Ref No.	Function	Authorised Officer	Consultation/ Limitation
	<p>food safety or animal foodstuffs and any modification or re-enactment of them.</p> <p>xiv) authorisations of processes (Environmental Protection Act 1990);</p> <p>xv) zoos (Zoo Licensing Act 1981).</p>		
EL2.	<p>Power to authorise persons, whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including Powers of Entry, under the following statutes and regulations and orders made thereunder:</p> <ul style="list-style-type: none"> - Public Health Act 1936 - Public Health Act 1961 - Prevention of Damage by Pests Act 1949 - Clean Air Act 1993 - Local Government (Miscellaneous Provisions) Act 1976 - Local Government (Miscellaneous Provisions) Act 1982 - Refuse Disposal (Amenity) Act 1978 - Control of Pollution Act 1974 - Caravan Sites and Control of Development Act 1960 - Building Act 1984 - Pet Animals Act 1951 - Riding Establishments Act 1964 and 1970 - Animal Boarding Establishments Act 1963 - Breeding of Dogs Act 1973 - Dangerous Wild Animals Act 1976 - Food and Environment Protection Act 1985 - Environmental Protection Act 1990 - Environment Act 1995 - Dangerous Dogs Act 1991 - Water Act 1989 - The Clean Neighbourhoods and Environment Act 2005 - Water Industry Act 1991 - Food Safety Act 1990 and any Order or Regulations or other instruments made thereunder or having effect by virtue of the European Communities Act 1972 and relating to food safety or animal foodstuffs and any modification or re-enactment of them. - Public Health (Control of Disease) Act 1984 - Public Health (Infectious Diseases) Regulations 1988 - Slaughter of Poultry Act 1967 - National Assistance Act 1948 (as amended) - Animal Health Act 1981 	Director	

Environment and Licensing Matters - General

Ref No.	Function	Authorised Officer	Consultation/ Limitation
	<ul style="list-style-type: none"> - the Agriculture (Miscellaneous Provisions) Act 1968 - Natural Mineral Waters Regulations 1985 - Health and Safety (Enforcing Authority) Regulations 1989 - Sunday Trading Act 1994 - Zoo Licensing Act 1981 - Performing Animals Act 1925 - The Control of Pesticides Regulations 1986 - Criminal Justice and Public Order Act 1994 - Noise and Statutory Nuisance Act 1993 - Noise Act 1996 - Health and Safety at Work Act Etc 1974 		
EL3.	<p>Authority to appoint named Officers as Inspectors and to be entitled to exercise the powers of an Inspector in:</p> <ul style="list-style-type: none"> i) Section 20(2)(a) to (m) inclusive, Sections 21, 22 and 25 of the Health and Safety at Work Act 1974; ii) any Health and Safety Regulations; iii) any of the appropriate provisions of the Acts mentioned in Schedule 1 of the 1974 Act which are specified in the third column of the Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provisions so specified which may be in force from time to time. 	Director	
EL4.	<p>Power to authorise named Officers to administer the provisions of the Clean Air Act 1993 with respect to offences under Sections 1, 2 and 20 and notification under Section 51.</p>	Director	
EL5.	<p>Authority to appoint named and suitably qualified Officers to exercise the powers of an Inspector under the Food Safety Act 1990: and any Order or Regulations or other instruments made thereunder or having effect by virtue of the European Communities Act 1972 and relating to food safety or animal foodstuffs and any modification or re-enactment of them.</p>	Director	
EL6.	<p>Authority to appoint such persons as necessary to act as Inspectors within the provisions of Part I of the Environmental Protection Act 1990.</p>	Director	
EL7.	<p>Authority to appoint named Officers to act under the provisions of Part III of the Food and Environmental Protection Act 1985 and Control of Pesticides Regulations 1986 in respect of the advertisement, supply, sale, storage</p>	Director	

Environment and Licensing Matters - General

Ref No.	Function	Authorised Officer	Consultation/ Limitation
	and use of pesticides except where the Health and Safety Executive is the enforcement authority by virtue of Regulation 3 of, and Schedule 1 to the Health and Safety (Enforcing Authority) Regulations 1989, and the use of pesticides in domestic premises by the occupier of those premises, provided such use does not form part of a work activity.		
EL8.	Authority to appoint in writing: <ul style="list-style-type: none"> i) under Section 19 of the Health and Safety at Work Etc. Act 1974 any Specialist or Consultant as may be required as an Inspector and to authorise such appointee to exercise such powers under Section 20 may be required; ii) to authorise any Specialist or Consultant as may be required to accompany an Inspector pursuant to Section 20(2)(c)(i). 	Director	
EL9.	The granting of licences for small lotteries under the Betting, Gaming and Lotteries Act, amusement with prizes, licences for street collections, licences for house to house collections, in accordance with the overall policy of the Council.	Director	
EL10	The approval and refusal of applications for Private Hire and Hackney Carriage Vehicle Licences for vehicles carrying up to eight passengers.	Director	
EL11	Authority to refuse a grant a Hackney Carriage or Private Hire Drivers' Licence, or to revoke an existing licence, where the driver is disqualified from driving and no longer holds a licence under Part III of the Road Traffic Act 1998 authorising him to drive a motor vehicle.	Director	
EL12	Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has no previous convictions or cautions.	Director	
EL13	Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has previous convictions or cautions for Minor Traffic Offences where the number of points endorsed on his/her driving licence is 9 or fewer.	Director	After consultation with the Chair or Vice Chair
EL14	Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has previous convictions, cautions or offences which are more than 5 years but less than 10 years prior to the application, except where the applicant has a conviction for Violence or an Indecency Offence, in which case the application must	Director	After consultation with the Chair or Vice Chair and two members of the Committee

Environment and Licensing Matters - General

Ref No.	Function	Authorised Officer	Consultation/ Limitation
	be referred to Committee in the circumstances set out in the approved guidelines.		
EL15	<p>Authority to grant a Hackney Carriage or Private Hire Drivers' Licence where the applicant has previous convictions, cautions or offences which are more than 10 years prior to the application, except in the following circumstances where the application must be referred to the Committee:</p> <ul style="list-style-type: none"> i) Where the applicant has a conviction for an indictable only offence; and/or ii) Where the applicant has a conviction for a serious sexual offence; or iii) Where the convictions are all more than 10 years old and fall outside of the above but it is felt by the Chair/Vice Chair that the circumstances justify refusal. 	Director	After consultation with the Chair or Vice Chair
EL16	Authority to appoint authorised officers to carry out enforcement functions under the Local Government Miscellaneous Provisions Act 1976, in relation to licensed vehicles and drivers operating in the borough which have been licensed by other licensing authorities, subject to those authorities delegating those functions to Gedling Borough Council.	Director	
EL17	Authority to authorise legal proceedings against any person contravening the provisions of the Council's Street Trading Prohibition Order.	Director	In consultation with the Monitoring Officer
EL18	Authority to deal with complaints about high hedges, any appeals, enforcement and authorisation of powers of entry under Part 8 of the Anti-Social Behaviour Act.	Director	
EL19	The authority to authorise persons whether employed by the Council or not, to act in a statutory role as appropriate to undertake duties and responsibilities, including powers of entry under the Health Act 2006 and regulations made thereunder to deal with smoke free premises	Director	
EL20	Authorise legal proceedings against any person contravening the provisions of the Health Act 2006 and regulations made thereunder.	Director	In consultation with the Monitoring Officer

Licensing Matters – Licensing Act 2003

Ref No.	Function	Authorised Officer	Consultation/ Limitation
L1	Delegated authority to carry out the functions and to deal with all decisions which are required to be made under the Licensing Act 2003 and which are not either delegated to the Licensing Panels or reserved to the Licensing Committee.	Director	



Report to Council/ Committee

Subject: Amendment of Hackney Carriage Vehicle Licence Conditions

Date: 22 March 2022

Author: Head of Environment

Purpose

To advise members of the outcome of the public consultation and the Council's position regarding a request to amend the Hackney Carriage Vehicle Licence Conditions namely the requirement under condition 6A (iv) that a roof sign shall be affixed to the roof of the vehicle in a proper manner and position at all times.

Recommendation(s)

THAT:

- 1) Members do not make any amendments to Hackney Carriage Vehicle Licence Conditions for the reasons set out in the report.**

1 Background

Application

- 1.1 In May 2021, a Gedling Borough Council licensed driver made an application regarding an amendment to the Hackney Carriage Vehicle Licence Conditions namely the removal of the requirement to have a roof sign affixed to the vehicle at all times. In summary, this was on the basis that the majority of his work was private hire and he felt that having the roof light encouraged members of the public to try to get into his vehicle when he was carrying pre booked fares. He argued that the existence of the condition for drivers undertaking private hire work posed a risk to the health and safety of drivers, passengers and members of the public.
- 1.2 Although the usual route for a driver aggrieved regarding a condition attached to their licence would be by way of an appeal to the Magistrates Court the Council agreed to put the matter before Members. The

application was heard at the meeting on the 13 July 2022. The driver was also invited to make representations to Members regarding the application, which he did along with submitting further information to support his application.

On this occasion members did not agree to remove the requirement but did agree to seek the views of the public and the trade on removing the requirement, resolving:

“To instruct officers to commence a public consultation on whether to remove the requirement for Hackney Carriages to display a roof sign when operating, the results of which would be brought back to a future meeting”

2 Statutory power to impose conditions on Hackney Carriage Vehicle Licences

- 2.2 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) enables district councils to administer licences for Hackney Carriage and Private Hire vehicles and drivers. The Act provides that a district council may attach to the grant of a licence such conditions, as it may consider reasonably necessary.
- 2.3 Section 47 (2) of the Act goes further and specifically provides that a district council may require any Hackney Carriage licensed by them to be of such design, or appearance or bear such distinguishing marks as shall clearly identify it as a Hackney Carriage.
- 2.4 Currently, the authority does not prescribe any specific vehicle design, make or model to which a Hackney Carriage licence may be granted, which it is entitled to do under the Act. The only distinguishing marks to identify the vehicle as a Hackney Carriage are the vehicle licence plates, (only visible when viewing the vehicle from the front or rear if stationary and within an appropriate distance to view) and the roof sign, which is visible regardless from where the vehicle is viewed and a common feature of Hackney Carriages country wide.

The roof sign must bear the words “FOR HIRE” on the front and “GBC” or “GEDLING BOROUGH COUNCIL” on the back.

3 The Council’s current position

- 3.1 Condition 6 of our Hackney Carriage Vehicle Licence is as follows:

6. Roof Signs

- A The Proprietor of the Hackney Carriage provided with a taxi meter not fitted with a flag or other device bearing the words

"FOR HIRE" shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements, that is to say;

- (i) the front of the sign shall bear the words "FOR HIRE" in plain letters at least one and a half inches in height and the back of the sign shall bear the initials "GBC" or the words "GEDLING BOROUGH COUNCIL" and the plate number
- (ii) the sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the carriage is for hire
- (iii) the sign shall be capable of being lit internally so that it is illuminated when the Hackney Carriage is "FOR HIRE" but not so illuminated otherwise
- (iv) the roof sign shall be affixed to the roof of the vehicle in a proper manner and position at all times.
- (v) the Proprietor of the Hackney Carriage shall maintain so far as is reasonably applicable such sign in efficient working order at all times.
- (vi) no other signs shall be displayed on the roof of the vehicle unless by prior written approval from the Councils Environment & Licensing Committee.

3.2 From Council records, it can be said that the Council has had a condition requiring a roof sign since before 2007.

The introduction of the Deregulation Act 2015 led to changes in the Taxi and Private Hire licensing regime. A review of all conditions including the condition requiring a roof sign was undertaken including a consultation with the trade. In February 2016, Committee again agreed to a condition requiring a roof sign on our Hackney Carriage Vehicle.

3.3 The Council's position was again re-affirmed in 2018. Following a challenge regarding displaying a roof sign by a licensed Hackney Carriage Driver, brought about by the ambiguity of the wording of the condition. On the 11 September 2018, Members of Environment & Licensing Committee were asked to consider an amendment to the wording of the Hackney Carriage Vehicle Licence Conditions, specifically relating to the displaying of roof signs. The proposed amendment to the condition was to avoid any future ambiguity in relation to the wording of the Condition.

A consultation was carried out for a 4-week period, on this matter and a number of other matters. The consultation letter was sent out to 1077 licensed drivers and is attached at **Appendix A**. The Council received a joint response from licensed drivers and this is attached at **Appendix B**. The response included concerns of being able to take the roof sign off when not working so as not to be approached by members of the public, being able to remove the roof sign when on the motorway, that having them on at all times increases the risk of them being stolen and that enforcement would be easier if the roof sign was not required when the vehicle was not working.

The Corporate Director in consultation with the Chair of the Committee considered the response and the response to the drivers is attached at **Appendix C**. The decision to amend the condition relating to roof signs not only removed ambiguity in relation to the wording of the Condition, but reinforced the provision afforded to district councils, allowing them to require any Hackney Carriage licensed by them to bear such marks as shall clearly identify the vehicle as a Hackney Carriage.

The Hackney Carriage Vehicle Licence Conditions were approved and continue to be attached to the grant of a Hackney Carriage vehicle licence. A copy of the current Conditions can be found at **Appendix D**.

- 3.4 The condition requiring a roof sign has therefore been a part of the Council's Hackney Carriage conditions for several years.

With the exception of the current application and some general comments in a previous consultation there has not been a specific report of an incident involving the health and safety of driver/passenger or member of the public, which has been caused by the existence of the roof sign.

4 Reasons for the necessity of the condition

- 4.1 As stated above the Council are legally entitled to impose any condition that they feel is reasonably necessary and specifically that allows a vehicle to be identifiable as a Hackney Carriage.

The fact that the Act specifically allows us to condition a Hackney Carriage so that it is clearly identifiable as a Hackney Carriage clearly supports the proposition that the condition requiring a roof sign is reasonably necessary.

- 4.2 The importance of the Hackney Carriage being identifiable as a Hackney Carriage, at all times, comes from years of case law. It is well established that once a vehicle is licensed as a Hackney Carriage it is always a

Hackney Carriage it cannot change form even when it is not working as a Hackney Carriage. This also led to the unique and unregulated position that a Hackney Carriage is entitled to work as private hire anywhere despite the driver and vehicle not being licensed by the Local Authority it is working in.

The 'golden triangle' of the Local Authority licensing the driver and vehicle in the area, which it works, is therefore missing. This brings with it greater issues over the Councils ability to regulate, enforce and protect public safety.

- 4.3 The unregulated ability of a Hackney Carriage being able to work private hire was established in the High Court judgment of *Stockton-On-Tees Borough Council v Fidler, Hussain and Zarmanian* [2010] EWHC 2430 (Admin). It had a significant impact on not only the Hackney Carriage and Private Hire trade, but also the licensing authorities up and down the country. It was judged that drivers of Hackney Carriages are considered not to be operating without a licence, while undertaking fares awarded to them via any Private Hire Operator outside of its licensing authority's area. As a result, a number of authorities across the country, including this authority, received an increased number of both driver and Hackney Carriage vehicle licence applications.
- 4.4 Facilitated by the High Court judgment referred to above, a considerable number of Gedling Borough Council licensed Hackney Carriages were and continue to operate, undertaking private hire work in both neighbouring and remote local authority areas. Meaning clear identification as to the licensed vehicle type is all the more important, to both the public and enforcement agencies.
- 4.5 The entire licensing regime is underpinned by the licensing authorities need to promote public safety. This is paramount and should not be compromised. In balancing the rights of drivers against public safety, the safety of the public should come out on top. Part of that safety comes with being able to enforce against drivers.

This has always been the case and has been further highlighted in the recent statutory standards issued by the Department for Transport reinforcing the need for public safety to be promoted across the Taxi and Private Hire licensing regime.

- 4.6 Having the roof sign condition ensures that by having the roof sign in situ at all times, it acts as a distinguishing feature, which clearly identifies the vehicle as a Licensed Hackney Carriage, whilst operating both inside and outside of the licensing authority area. Such a feature is considered an important asset for public and passenger safety. It allows members of the

public to know at a glance that the vehicle is registered to a standard as to award it a Hackney Carriage licence and it allows any licensing authority to see which council licences the vehicle should they have cause to report it. It also, importantly, protects the driver from unnecessary enforcement when operating outside of their licensing authority's area. Other Licensing Authorities upon seeing the roof sign will not have cause to stop the driver as they will now they are a Hackney Carriage and therefore able to operate in its area. Such a view has been expressed by the Compliance Manager at Nottingham City Council at **Appendix H**.

- 4.7 Roof signs not only act as a clear and distinguishable feature, assisting the public with the identification as to the type of vehicle licence under which the driver and vehicle are operating. It also acts as an indicator to enforcement agencies and personnel, of the type of licence under which both driver and vehicle should be operating. The requirement to display a roof sign in accordance with the licence conditions is an important condition. A condition, which the Licensing Section regularly enforces.
- 4.8 Regardless of design and specification, it is a common sight up and down the country that vehicles licensed as a Hackney Carriage are furnished with a roof sign. Research has shown that all of the licensing authorities across Nottingham and Nottinghamshire require vehicles licensed as a Hackney Carriage to display a roof sign. Either as a condition of licence, or as a requirement within the vehicle specification.

5 Applicants grounds for removal

As referred to above at the meeting held on the 13 July 2021 members had sight of written representations prepared by the driver and from the driver himself.

In Officers opinion, the main point put forward by the driver is that the existence of the roof sign is putting himself, his passengers and other members of the public, health and safety, at risk. This is due to members of the public trying to get into his car when the vehicle is pre-booked as private hire because of the existence of the roof sign.

The driver describes two incidents in detail regarding members of the public trying to enter the vehicle thinking he was available for hire when in fact he was pre-booked. He states there have been numerous other occasions that this has happened. With the exception of the current application and general comment from a previous consultation, the Council have not received any reports of any health and safety incident that can be attributable to the existence of a roof sign.

Officers accept that during the pandemic, the demand for taxis has outweighed the supply and as such, Officers submit that the issues the

driver reports are likely to have occurred regardless of the existence of the roof sign.

The driver submits that the roof sign should be removed when the vehicle is carrying out private hire bookings.

Officer's view is that it is vitally important that roof signs be consistently used by all hackney carriages to identify the vehicle as a hackney carriage particularly in line with the case law. If a hackney carriage was allowed to remove the top light when carrying out private hire work the vehicle would appear to be a private hire vehicle which would lead to more inconvenience for the driver being pulled over to explain why they are working in another licensing authorities area along with issues over enforcement and public safety as highlighted above.

The driver further submitted that the plates alone are sufficient to identify the vehicle as a Hackney Carriage. Officers' view is that the plates on their own do not clearly distinguish the vehicle as a hackney carriage particularly in traffic, from the side view of the vehicle, at night and from a distance – please see video clips at **Appendix E**.

6 Results of the Consultation

- 6.1 The consultation requested at the meeting of the 13 July 2021 was carried out alongside the wider consultation regarding the Department of Transport's statutory standards for a period of 8 ending on the 9 December 2021. The question asked and the results of the consultation are attached at **Appendix F**.

The Council licenses nearly 800 drivers. Overall, only 40 respondents answered the question 51 % (20) of the responders voted that yes the condition should be removed and 49 % (19) of the responders voted no the condition should not be removed.

14 of the responders left comments when answering the question. The comments and Officers views can be found at **Appendix G**.

In summary, 3 responders commented that the condition should remain, with one of them suggesting if it were to be removed, there should be something else in place so that it is still recognisable as a Hackney Carriage. 4 responders commented that the sign should be removed when on holiday or using the vehicle for personal reasons. 2 responders commented that it should be removed due to vehicles being broken into, 2 responders commented that it should be removed as they only do private hire work and 1 responder commented that it should be removed, as the plates are sufficient to identify it as a hackney carriage.

7 Freedom of Information Request

- 7.1 A freedom of information request has been sent to all local authorities within the UK excluding the London Authorities. Of the 292 relevant responses:

263 Authorities had top light/roof sign condition, requirement or Byelaw.

6 Authorities specify a London Cab vehicle type, which has the top light built in.

23 Authorities do not have a top light condition.

Of the 292 responses, 5 Authorities had received complaints about or requests to remove the top light condition. Only one of these complaints was on public safety grounds:

Caerphilly County Borough Council – 1 complaint not related to public safety (no further details provided).

Canterbury City Council – 2 complaints relating to the size of the top light. No public safety complaints.

Cannock Chase Council – “Yes, we have received several requests to remove the Top Lights on occasion. These are generally for convenience around personal use of the vehicle rather than public safety.”

Gravesham Borough Council – 1 complaint linked to public safety (no further details provided).

Rossendale Borough Council - One request to remove sign from top of minibus to allow passenger onto car park at Manchester Airport.

Broxtowe Borough Council have not received any complaints and provided the following comments in response to this question:

“None. Our view is that it is a matter of public safety for a Top Box to be displayed to ensure that members of the public can quickly and easily differentiate, even in dimly lit circumstances, between licensed hackney carriages and private hire vehicles or other saloon vehicles (which may not be licensed).”

- 7.2 As can be seen the overwhelming majority of licensing authorities have a condition requiring the use of a roof sign and none bar one reported any complaint regarding the condition on the grounds of public safety.

8 Conclusion

The law allows licensing authorities to condition hackney carriage vehicles with any condition they feel is necessary and further allows them to condition hackney carriages so that they are recognisable as a hackney carriage. It is clear that the condition regarding the roof sign is necessary.

It is nationally common practice for hackney carriages to be identified over other vehicles by the displaying of a roof sign.

Although it is accepted that during and post pandemic there may be issues as described by the driver, Officers cannot see any evidence that these relate specifically to the use of a roof sign. It is likely that all hackney and private hire vehicles may face the same issue until the supply and demand has levelled out.

Even if there was evidence that pointed to the use of the roof sign specifically causing the issue, there has to be a balancing act of the issues that the existence of the roof sign may bring with the public safety and enforcement issues that having it, address.

Officers are firmly of the view that the necessity of the requirement outweigh any issues that may be attributed to the use of the roof sign and that the condition should remain as it is. Members must be sure that the condition poses such a risk as to outweigh the clear public safety and enforcement issues that it addresses before making a decision to amend the condition.

9 Proposal

That the Hackney Carriage Vehicle Licence Conditions are not amended to incorporate the request by the licensed driver.

3 Alternative Options

- 3.1 That the Hackney Carriage Vehicle Licence Conditions are amended to incorporate the request to remove the requirement to display a roof sign which would result in Hackney Carriages licensed with the Council to be more difficult to identify both in and out of the Borough having negative repercussions regarding enforcement and the hindering the public when trying to identify a hackney carriage particularly at in the hours of darkness.

As set out in this report, the Council's position is that if a vehicle is licensed as a hackney carriage it must be identifiable as such and that the plates alone are not sufficient for this. If Members did wish to amend the condition by removing the requirement of the roof sign there would need to be a further condition to ensure that a hackney carriage is distinguishable.

- 3.2 An alternative to displaying a roof sign would be the wrapping of the vehicle with a vinyl wrap, in colours specified by the authority. Having enquired with a number of businesses local to Nottingham, the cost to have a medium to large sized vehicle wrapped in vinyl would be in the region of £1250 + vat. The exact cost is based on vehicle make, model and age.

Officers do not feel that this would be appropriate, as the cost is disproportionate to the aim, to make the vehicle distinguishable as a Hackney Carriage. This can be done simply and cost effectively with the condition already in place.

For context the current cost to purchase, a roof sign, which meets Gedling's current specification, is £25 + vat for the smaller sign. Alternatively, £37 + vat for the larger sign. If fitting is required, this costs £10 + vat.

- 3.3 A further alternative would be to only licence a bespoke Hackney Carriage vehicle, as employed by Nottingham City Council. The vehicle type and colour could be specified by the authority, to enable the identification of the vehicle as being licensed with this Council.

The current cost of such vehicles, which are also more environmentally friendly are:

LEVC £55 – £65,000
Nissan Dynamo £45,000
Mercedes Vito £40,000

Again, officers would not recommend this alternative due to the cost implications for the drivers. Officers are clear however, that should Committee wish to remove the condition there would need to be something else in place to identify the vehicle as a Hackney Carriage at all times.

4 Financial Implications

- 4.1 There are no financial implications.

5 Legal Implications

- 5.1 The legal position regarding the imposition of conditions is set out in the body of this report.

Although challenge to a pre-existing condition should normally be made to, the Court Members heard the application and although they did not agree to remove the condition, they did agree to seek the views of the public and

the trade in relation to the removal of the condition.

Members must have regard to the consultation responses in reaching its decision.

The consultation regarded a condition that was pre-existing and has been part of the Council's hackney carriage vehicle licence conditions for several years. It is not the case that the Council were consulting on bringing in a new condition that may bring some detriment to its licensed proprietors.

The consultation process was fair in the context of this case. The consultation question stated what the council's position is regarding the condition and gave the opportunity for responders to comment on whether or not the condition ought to be removed. The consultation ran for a period of 8 weeks and was well advertised.

6 Equalities Implications

6.1 There are no equalities implications arising from this report.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

8.1 Appendix A – Consultation 2018 – letter sent to licensed drivers

Appendix B – responses to the 2018 consultation

Appendix C – letter sent to the consultees to the 2018 consultation with the Council's decision

Appendix D – current Hackney Carriage Vehicle conditions

Appendix E – Video clips of a top light and plates on a licensed vehicle – to be played during Committee

Appendix F – Consultation 2021 – question and results report

Appendix G – Consultee comments and officer responses

Appendix H – response from the Compliance Manager at Nottingham City Council.

Appendix I – Written representations from applicant – to follow

9 Background Papers

- 9.1 Report to the Environment and Licensing Committee – “Amendment of Hackney Carriage Vehicle Licence Conditions.” Dated 13 July 2021. Plus supplemental written representations submitted by the driver prior to meeting.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

Switchboard: (0115) 901 3901
Minicom: (0115) 901 3935
Email: Kevin.nealon@gedling.gov.uk
Website: www.gedling.gov.uk
Our Ref: KNCLSEPT2018
Your Ref:

13 September, 2018

Dear

Consultation on changes to the conditions of Hackney Carriages / Private Hire Drivers, and Private Hire Operators, Changes to Hackney Carriage Vehicle Licence Conditions.

Gedling Borough Council is proposing to make changes to the conditions relating to driver and operator licences. Changes to the Hackney Carriage vehicle licence conditions are also been proposed. At the meeting of the Environment and Licensing Committee on Tuesday 11th September 2018 the following changes were approved for consultation.

In summary the changes include:

- 3 or 5 year licence holders who fail to attend any of the 12 month period declarations will risk having their licence suspended. In order to reflect this the Hackney Carriage and Private Hire Driver Conditions, and the Private Hire Operator Conditions are to be amended to include authority to suspend the licence after giving a 7 day notice period. The licence will be suspended until the declaration has been fully completed.
- The Statement of Policy and Guidelines for the consideration of Applications for Hackney Carriage / Private Hire Drivers and Private Hire Operators are also to be amended to recognise the authority to suspend the licence should a 3 or 5 year licence holder fail to attend any of the 12 month period declarations.
- Hackney Carriages are to have a roof sign affixed to the vehicle at all times. The Hackney Carriage Vehicle Licence Conditions are to be amended to clarify when a roof sign is to be in position and on display on the Hackney Carriage.

The consultation will run until 10 October 2018 and any comments should be addressed to myself by post to Gedling Borough Council, Public Protection Service, Civic Centre, Arnot Hill Park, Arnold, Nottinghamshire NG5 6LU.

For full details of the proposed changes please visit the Council website at www.gedling.gov.uk or contact Customer Services on Tel: 0115 9013971.

Yours sincerely



Kevin Nealon, Community Protection Manger

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- 8 OCT 2018

Customer Services

Dear Sir

We are writing to object to the following change in the licensing regulations.

- HACKNEY CARRIAGES ARE TO HAVE A ROOF SIGN AFFIXED AT ALL TIMES

We are objecting for the following reasons:

MEMBERS OF THE PUBLIC

The public rarely know or understand the rules regarding the flagging down of a Taxi - a sign on the roof to them usually means they can get in it or at least approach the vehicle as they must be working. Taking off the sign when not working as private hire vehicles as they do with their panels is a clear indication to the public that the vehicle is not working. The light being lit is immaterial as in daylight it's hard to see if its lit or not.

SAFETY & SECURITY

We believe that as these lights are only affixed by a magnet shows that they are designed to be taken off. We also believe that there are certain times where it would be safer to remove them, for example when going on motorways and travelling at high speed. Why take the risk of it coming off? And, who would be liable if they did? Also, by leaving the roof signs on at all times we would be opening ourselves up for them to be stolen or damaged - they are not cheap items to replace.

LEGISLATION & ENFORCEMENT

We believe by removing the sign when not working enforcement would be easier. A quick visit to the ranks or taxi bases would make it clear who was and wasn't working or who was breaking the rules.

This would also negate the need for officers to try and pull over vehicles - a procedure that should be left to the police or take our details as we drive past. It would also avoid confusion & confrontation with the Traffic Wardens who insist our signs are removed when we're parking in normal bays to clearly indicate we're not working (ie Front Street/NatWest).

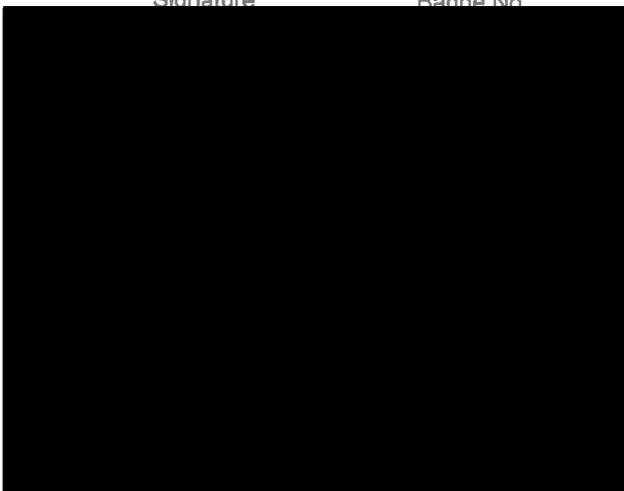
With having the sign on all the time wherever we go enforcement officers would assume we're working which would surely increase the amount of complaints or enquires and investigations into drivers - could Gedling cope with this?

Why add more rules and regulations when the ones that already exist aren't enforced? (Authority & No on rear of sign).

We hope you listen and understand our objections and reconsider this particular regulation change.

Signature

Badge No



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Redacted

Email: kevin.nealon@gedling.gov.uk
Web: www.gedling.gov.uk
Direct Line: (0115) 9013859
Contact Centre: (0115) 9013971

Our Ref:
Your Ref:

Date:

Dear (redacted)

Consultation on changes to the conditions of Hackney Carriages / Private Hire Drivers, and Private Hire Operators and Changes to Hackney Carriage Vehicle Licence Conditions.

I am writing in response to the representation you made during the consultation on the changes to the licence conditions listed above. In total 2 letters signed by 5 licensed drivers were received by the Council and considered by the Chair of the Environment and Licensing Committee and the Director for Health and Community Wellbeing.

All representations received related to the roof light being affixed to the roof at all times which was a proposed amendment to the Hackney Carriage Vehicle Licence Conditions.

It has been recorded that the Director for Health and Community Wellbeing, in consultation with the Chair of the Environment & Licensing Committee, resolved to approve all the proposed amendments to the Hackney Carriage Vehicle Licence Conditions, Hackney Carriage & Private Hire Drivers Licence Conditions and the Private Hire Operator conditions that were put before the Environment & Licensing Committee on 11 September 2018.

All drivers, vehicle and operator licences issued after 8 November 2018 will be subjected to the new approved licence conditions. A copy of each set of conditions can be found on the website www.gedling.gov.uk.

Thank you for taking the time to make representations on this matter.

Yours faithfully



Kevin Nealon
Community Protection Manager

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Hackney Carriage Vehicle Licence Conditions

Definitions

"The Council" means the Gedling Borough Council.

"Authorised Officer" means any Officer authorised in writing by the Council for the purpose of these conditions and any statutory requirements relating to taxi licensing.

"Hackney Carriages" or "vehicle" has the same meaning as in the Town Police Clauses Act 1847.

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

"Proprietor" means the person or persons or body named in this licence as the Proprietor of the vehicle and includes a part Proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.

"Technical Test" means such test as the Council may prescribe to assess the mechanical fitness and suitability of the vehicle.

"Licence Plate" means the plate issued by the Council for the purpose of identifying the vehicle as a Hackney Carriage Vehicle duly licensed by the Council.

"Vehicle Specification" means the specification document agreed by the Council. A copy of the vehicle specification be found on www.Gedling.gov.uk under taxi licensing, or a copy can be requested from the Reception Desk at the Civic Centre offices.

The Proprietor shall observe and perform the following terms and conditions:-

1. Vehicle

- A The vehicle shall be maintained throughout the Licence period so as to comply at all times with the Vehicle Specification approved by the Council, and the interior and exterior of the Hackney Carriage shall be kept in a clean condition and maintained in a safe condition throughout the duration of the Licence.
- B Any damage to a Hackney Carriage shall be reported to the Council by the Proprietor within seventy-two hours of such damage in accordance with the 1976 Act and until such damage is repaired to the satisfaction of the Authorised Officer of the Council, the vehicle shall not be used for hire.
- C The Proprietor shall permit an Authorised Officer or any Constable to inspect the vehicle at all reasonable times. If the Authorised Officer or Constable is not satisfied as to the condition of the vehicle for use as a

Hackney Carriage, the Proprietor shall, after being notified in writing, present the vehicle for inspection at such place within the District of Gedling as is specified in such notice.

- D Without prejudice to the provisions of Condition 1C of these conditions, the Proprietor shall present the vehicle for inspection and testing at such time and at such place within the district of Gedling as specified in a notice served upon the Proprietor by the Council requiring the Proprietor so to do. Provided that the Council shall not, under the provisions of this paragraph, require the Proprietor to present the vehicle for inspection and testing on more than two separate occasions during any one period of twelve months.
- E If the Authorised Officer or Constable is not satisfied as to the condition of the vehicle for use as a Hackney Carriage upon completion of the inspection required by Condition 1 C or 1 D of these Conditions, he/she may immediately suspend the vehicle Licence. The Proprietor shall forthwith upon being required so to do by the Authorised Officer, cause the Licence Plate to be removed from the vehicle and handed to the Authorised Officer or Constable who shall keep it in his custody until such time as he is satisfied as to the condition of the vehicle, whereupon the Licence Plate shall be returned to the Proprietor.
- F The Hackney Carriage Vehicle Licence shall be valid for a period of six months, where the vehicle is over 3 years of age.
- G The Hackney Carriage Vehicle Licence shall be valid for a period of twelve months, where the vehicle is 3 years of age or under and has mileage of less than 36,000 miles
- H (i) If, on inspection, the vehicle fails the technical test, the vehicle must be submitted for re-inspection within fourteen days.
- (ii) If the Proprietor fails to comply with Condition 1 H (i), an additional fee as set out in the Council's Scale of Fees at the time, will be payable when the vehicle is finally inspected.
- I There shall be provided and maintained in the vehicle at all times when it is in use or available for hire, a suitable and efficient fire extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliances such equipment to be carried in such a position in the vehicle so as to be readily available for immediate use in an emergency.
- J The vehicle is to carry a set of replacement fuses of various amp rating and replacement bulbs – to include headlight, tail light, side light, brake light, indicator light and rear number plate light as minimum.
- K The proprietor shall ensure that a Hackney Carriage that is mechanically unable to proceed shall not remain on the stand longer than is necessary to call for assistance to remove that Hackney Carriage from that stand.
- L Space saver tyres are allowed provided:
- I. the type of space saver tyre is an original part of the vehicle's

- design and manufacture.
- II. the space saver tyre is limited to use in an emergency situation only at a maximum speed of 50 mph. Distance and mileage is to comply with manufacturers instructions.

2. Licence Plate and Drivers Badge

- A The licence plates issued by the Council shall at all times be kept affixed to the outside of the front and rear of the vehicle, in an upright position, either on or immediately above or below the bumper in such a position that the vehicle's registration mark is not obscured, with the particulars thereon facing outwards and in such a manner and place that the licence plates are clearly visible by daylight from the road on both the front and rear of the vehicle
- B The Licence Plate referred to in Condition 2A of these Conditions shall remain the property of the Council and shall be returned forthwith to Customer Services, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham. NG5 6LU on expiry of the Licence unless the Council has granted a further Hackney Carriage Licence in respect of the vehicle, if the Proprietor no longer holds a Hackney Carriage Licence issued by the Council which is in force in respect of the vehicle.
- C The Proprietor of a licensed Hackney Carriage, shall report the damage, loss or theft of any Plate to Customer Services, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham as soon as such damage or theft becomes known.
- D In the event of a Plate being stolen, the Proprietor shall make a report immediately to the local police station.
- E Replacement Plates will be issued for a fee determined by the Council and payable by the Proprietor.
- F The proprietor is to ensure the identity badge holder is mounted inside the vehicle in such a location that it can be seen from all seats within the vehicle. One of the two Drivers badges issued by the Council of the person driving the vehicle is to be mounted in the holder at any time while the vehicle is plying for hire or being used for hire.

3. Documentation

- A At all times the Proprietor shall during the currency of this Licence, keep in force in relation to the user of the vehicle as a Hackney Carriage, a policy of insurance complying with the requirements of Part VI of the Road Traffic Act 1972 to include hire and reward.
- B On being so required by an Authorised Officer, the Proprietor of the vehicle shall produce to that Officer for examination, the Certificate of insurance issued by the Insurer in respect of the vehicle for the purposes of Part VI of the Road Traffic Act 1972 and/or proof of ownership of the vehicle and/or the full current MOT Certificate for the vehicle.
- C Provided that if the Proprietor fails to produce the said documents to that Officer, the Proprietor shall, within five days of such a request, produce

them to that Officer or to any other Authorised Officer at the Licensing Section, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU.

- D The Proprietor shall notify the Council in writing of any change of address (including a change of business address) during the period of the Licence within seven days of such a change taking place.

4. Advertisements

- A Any advertisement on the vehicle shall be confined to a notice fixed to any of the side door panels of the vehicle containing the following information:-

- (i) Name of Operator and
- (ii) Telephone number of Operator.

The design of the notices shall be approved by the Council.

- B No other advertising material shall be exhibited on the vehicle without the prior written approval of the Council's Environment and Licensing Committee.

5. Taxi Meters and Data Systems

- A Taximeters fitted to Gedling Borough Council Hackney Carriages must be of a type previously approved for use under the Measuring Instruments (taximeters) Regulations 2006, and any vehicle presented to the Council after 1 April 2016 for a Hackney Carriage licence must be fitted with calendar controlled taximeter, locked and sealed by the manufacturer/supplier so that tariff rates change automatically and cannot be changed or tampered with manually by any person.

- B Some meters can be controlled by remote control. The use of remote controls is not permitted in vehicles licensed by Gedling Borough Council.

- C Where fitted, taximeters must be maintained in a safe condition in accordance with manufacturer's guidelines. All taximeters should be fitted in a position, approved by the Council's vehicle tester, where they are not obstructed by other fixtures or fittings within the vehicle and in a place where they are clearly visible to all passengers conveyed in the vehicle

- D The meter must comply with the Council's Hackney Carriage Fares Scale. A copy of this Scale must be displayed in your vehicle where it is visible to all passengers.

- E You must have the meter satisfactorily tested by an Authorised Officer of the Council before it is used. With effect from 1st April 2016, any meter fitted to a Hackney Carriage must be calendar controlled and sealed.

- F The meter must be accurate, be capable of showing that the vehicle is or is not hired.

- G When the meter is working, the fare must be clearly legible. This fare must be unambiguous and must not exceed the rate as given in the

Council's Hackney Carriage Fares Scale.

- H The word "FARE" must be clearly printed on the meter so it clearly indicates the fare displayed.
- I You must report any failure of the meter to the Council by 10.00am the next working day.
- J The meter must only be brought into action and the fare or charge must only commence from the point at which the hirer starts his/her journey.
- K A GPS taxi management & dispatch system consisting of a mobile data head and a central dispatch system manufactured may be fitted in accordance with the manufacturer's instructions. The GPS system is not a taximeter. It can be used alongside the vehicle's approved taximeter but must not replace it.

6. Roof Signs

- A The Proprietor of the Hackney Carriage provided with a taxi meter not fitted with a flag or other device bearing the words "FOR HIRE" shall cause the carriage to be provided with a sign so constructed as to comply with the following requirements, that is to say;
 - (i) the front of the sign shall bear the words "FOR HIRE" in plain letters at least one and a half inches in height and the back of the sign shall bear the initials "GBC" or the words "GEDLING BOROUGH COUNCIL" and the plate number
 - (ii) the sign shall be capable of being so operated that it indicates clearly and conveniently to persons outside the carriage whether or not the carriage is for hire
 - (iii) the sign shall be capable of being lit internally so that it is illuminated when the Hackney Carriage is "FOR HIRE" but not so illuminated otherwise
 - (iv) the roof sign shall be affixed to the roof of the vehicle in a proper manner and position at all times.
 - (v) the Proprietor of the Hackney Carriage shall maintain so far as is reasonably applicable such sign in efficient working order at all times.
 - (vi) no other signs shall be displayed on the roof of the vehicle unless by prior written approval from the Councils Environment & Licensing Committee.

7. Fares

- A The Proprietor of the Hackney Carriage herein licensed shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council and notified to the Proprietor. Such rate or fare shall be calculated by distance and time and may be subject to variation from time to time.

- B The Proprietor of the Hackney Carriage shall cause the current table of fares, as fixed from time to time by the Council, to be exhibited inside the carriage. The Proprietor shall not cause the fares table to be concealed or rendered illegible at any time while the vehicle is plying for hire or being used for hire. (Additional copies of the fares may be obtained from Customer Services, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU).
- C The fare charged shall be for the hire of the Hackney Carriage and there shall be no extra charge for luggage.

8 Hackney Carriage Undertaking Private Hire Work

- A If a Hackney Carriage is to undertake private hire work via bookings received from a licensed operator, the proprietor should notify the Council of the operator's company name through which the vehicle is run. If the Hackney Carriage proprietor changes the operator through whom they run the vehicle, then the change must be notified to the Council within 48 hours of such a change.
- B Regardless of how the Proprietor operates the vehicle, once a vehicle is licensed by the Council as a Hackney Carriage, the vehicle remains a Hackney Carriage until such time the licence has either:
 - I. expired
 - II. suspended
 - III. revoked
 - IV. surrendered

The vehicle must therefore be fitted with a compliant meter, roof light, identity badge holder and licences plates, first aid kit, fire extinguisher and replacement bulbs and fuses as specified at all times.

9. Hackney Carriage Drivers

- A The Proprietor shall not in the district act as a driver of a vehicle unless he has obtained a current combined Hackney Carriage/Private Hire Vehicle Drivers Licence issued by the Council.
- B The Proprietor shall not in the district;
 - (i) employ or use any person as the driver of the vehicle for the purpose of any hiring unless the person concerned is the holder of a current Hackney Carriage/Private Hire Drivers Licence issued by the Council
 - (ii) permit any other person to act as the driver of a vehicle for the purpose of any hiring unless the person concerned has a current combined Hackney Carriage/Private Hire Vehicle Drivers Licence issued by the Council.
- C The Proprietor shall maintain a list of the names and addresses of all persons employed or otherwise used by him for the purposes of driving the vehicle and shall on request inform the Council of the content of such a list.

10. Radios

The Proprietor shall ensure that any radio equipment fitted to the vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

11. Transfers

The Proprietor shall not assign or in any way part with the benefit of the Licence. If he/she transfers his/her interest in the Hackney Carriage Vehicle to any other person he/she shall, not less than fourteen days before such transfer, give notice in writing thereof to the Council specifying the name and address to whom the vehicle is to be transferred. If, for any reason the Proprietor does not wish to retain the Hackney Carriage Vehicle Licence, he/she must immediately surrender and return the Licence and Plate if appropriate to the Planning and Environment Department, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham.

PENALTIES

The Local Government (Miscellaneous Provisions) Act 1976 provides that any person who acts in contravention of the provisions of Part II of the Act, shall be guilty of an offence and may be liable on summary conviction to a fine not exceeding £1,000 where no other specific penalty is expressed. In addition, such action may lead to the suspension or revocation of an existing Licence or the non-renewal of such a Licence.

Your attention is drawn to the various provisions contained in the 1976 Act which you are advised to obtain and read carefully.

N.B. These conditions are additional to the statutory requirements relating to Hackney Carriages contained in the Town Police Clauses Act 1847 (and any byelaws made thereunder) and the Local Government (Miscellaneous Provisions) Act 1976.

APPEALS

Please see the attached guidance should you wish to appeal any of the licence conditions.

GUIDANCE NOTES ON APPEALING LICENCE CONDITIONS

Please read these notes carefully

If you are aggrieved by these licence conditions Section 300 of the Public Health Act 1936 governs how you should make your appeal to the Magistrates' Court.

Section 300(1) of the Act and Rule 34 of the Magistrates' Courts Rules mean that **your appeal must be made by way of Complaint for an Order**. This is a special form prescribed by the Magistrates' Courts (Forms) Rules 1981. You should contact the Magistrates' Court or your Solicitor immediately to obtain the correct documentation to ensure that your appeal is made correctly.

Unless you are exempt, **the Magistrates' Court will require you to pay a fee when you lodge your appeal**. You should contact the Magistrates' Court or your Solicitor immediately to find out how much you will have to pay.

Section 300(2) of the Act states that **you must lodge your appeal with the Court within 21 days of service of these conditions on you**. This means that the signed Complaint form and court fee should reach the Court within 21 days. The Court cannot accept appeals lodged once this appeal period has expired.

The Magistrates Court Office is at:

Nottingham Magistrates' Court
Carrington Street
Nottingham
NG2 1EE
Tel: (0115) 955 8111

Private Hire Vehicle Licence Conditions

Definitions

"The Council" means the Gedling Borough Council.

"Authorised Officer" means any Officer authorised in writing for the purpose of these conditions and any statutory requirements relating to private hire licensing.

"Private Hire Vehicle" or "vehicle" means the private vehicle licensed by the Council under the Local Government (Miscellaneous Provisions) Act 1976.

"Proprietor" means the person or persons or body named in the licence as the Proprietor of the Private Hire Vehicle and includes a part Proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.

"Technical Test" means such test as the Council may prescribe to access the mechanical fitness and suitability of the vehicle.

"Plate" means the Licence Plate issued by the Council for the purpose of identifying the vehicle as a private hire vehicle duly licensed by the Council.

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

"Vehicle Specification" means the specification document agreed by the Council. A copy of the vehicle specification be found on www.Gedling.gov.uk under taxi licensing, or a copy can be requested from the Reception Desk at the Civic Centre offices.

The Proprietor shall observe and perform the following terms and conditions:-

1. Vehicle

- A The vehicle shall be maintained throughout the Licence period so as to comply at all times with the Vehicles Specification approved by the Council, and the interior and exterior of the private hire vehicle shall be kept in a clean condition and maintained in a safe condition throughout the duration of the Licence.
- B Any damage to a private hire vehicle shall be reported to the Council by the Proprietor within seventy-two hours of such damage in accordance with the 1976 Act and until such damage is repaired to the satisfaction of the Authorised Officer of the Council, the vehicle shall not be used for hire.
- C The Proprietor shall permit an Authorised Officer or any Constable to inspect the vehicle at all reasonable times. If the Authorised Officer or Constable is not satisfied as to the condition of the vehicle for use as a private hire vehicle, the Proprietor shall, after being notified in writing, present the vehicle for inspection at such place within the District of

Gedling as is specified in such notice.

- D Without prejudice to the provisions of Condition 1C of these conditions, the Proprietor shall present the vehicle for inspection and testing at such time and at such place within the district of Gedling as specified in a notice served upon the Proprietor by the Council requiring the Proprietor so to do. Provided that the Council shall not, under the provisions of this paragraph, require the Proprietor to present the vehicle for inspection and testing on more than two separate occasions during any one period of twelve months.
- E If the Authorised Officer or Constable is not satisfied as to the condition of the vehicle for use as a private hire vehicle upon completion of the inspection required by Condition 1C or Condition 1D of these Conditions, he/she may immediately suspend the vehicle Licence. The Proprietor shall forthwith upon being required so to do by the Authorised Officer, cause the Licence Plate to be removed from the vehicle and handed to the Authorised Officer or Constable who shall keep it in his custody until such time as he is satisfied as to the condition of the vehicle, whereupon the Licence Plate shall be returned to the Proprietor.
- F The Hackney Carriage Vehicle Licence shall be valid for a period of six months, where the vehicle is over 3 years of age.
- G The Hackney Carriage Vehicle Licence shall be valid for a period of twelve months, where the vehicle is 3 years of age or under and has mileage of less than 36,000 miles
- H (i) If, on inspection, the vehicle fails the technical test, the vehicle must be submitted for re-inspection within fourteen days.
- (ii) If the Proprietor fails to comply with Condition 1H (i), an additional fee as set out in the Council's Scale of Fees at the time, will be payable when the vehicle is finally inspected.
- I There shall be provided and maintained in the vehicle at all times when it is in use or available for hire, a suitable and efficient fire extinguisher and a suitable first aid kit containing appropriate first aid dressings and appliances, such equipment to be carried in such a position in the vehicle so as to be readily available for immediate use in an emergency.
- J The vehicle is to carry a set of replacement fuses of various amp rating and replacement bulbs – to include headlight, tail light, side light, brake light, indicator light and rear number plate light as minimum.
- K Space saver tyres are allowed provided:
- III. the type of space saver tyre is an original part of the vehicle's design and manufacture.
- IV. the space saver tyre is limited to use in an emergency situation only at a maximum speed of 50 mph. Distance and mileage is to comply with manufacturers instructions.

2. Licence Plate and Identity Badge

- A The licence plates issued by the Council shall at all times be kept affixed to the outside of the front and rear of the vehicle, in an upright position, either on or immediately above or below the bumper in such a position that the vehicle's registration mark is not obscured, with the particulars thereon facing outwards and in such a manner and place that the licence plates are clearly visible by daylight from the road on both the front and rear of the vehicle
- B The Licence Plate referred to in Condition 2A of these Conditions shall remain the property of the Council and shall be returned forthwith to Customer Services, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham. NG5 6LU on expiry of the Licence unless the Council has granted a further Hackney Carriage Licence in respect of the vehicle, if the Proprietor no longer holds a Hackney Carriage Licence issued by the Council which is in force in respect of the vehicle.
- C The Proprietor of a licensed Hackney Carriage, shall report the damage, loss or theft of any Plate to Customer Services, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham. NG5 6LU as soon as such damage or theft becomes known.
- D In the event of a Plate being stolen, the Proprietor shall make a report immediately to the local police station.
- E Replacement Plates will be issued for a fee determined by the Council and payable by the Proprietor.
- F The proprietor is to ensure the identity badge holder is mounted inside the vehicle in such a location that it can be seen from all seats within the vehicle. One of the two Drivers badges issued by the Council of the person driving the vehicle is to be mounted in the holder at any time while the vehicle is plying for hire or being used for hire.

3. Documentation

- A At all times the Proprietor shall during the currency of this Licence, keep in force in relation to the user of the vehicle as a private hire vehicle, a policy of insurance complying with the requirements of Part VI of the Road Traffic Act 1972 to include hire and reward.
- B On being so required by an Authorised Officer, the Proprietor of the vehicle shall produce to that Officer for examination, the Certificate of insurance issued by the Insurer in respect of the vehicle for the purpose of Part VI of the Road Traffic Act 1972 and/or proof of ownership of the vehicle and/or the full current MOT Certificate for the vehicle.
- C Provided that if the Proprietor fails to produce the said documents to that Officer, the Proprietor shall, within five days of such a request, produce them to that Officer or to any other Authorised Officer at the Licensing Section, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU.
- D The Proprietor shall notify the Council in writing of any change of address

(including a change of business address) during the period of the Licence within seven days of such a change taking place.

4. Advertisements

A Any advertisement on the vehicle shall be contained in a notice fixed to any of the side door panels of the vehicle containing the following information:-

- (i) Name of operator, and
- (ii) Telephone number of operator.

The design of the notice shall be approved by the Council.

Any proprietor wishing to apply for exemption from the requirements of Condition 4A(2) shall do so in writing to the Council setting out reasons for an exemption to be considered.

B No other advertising material shall be exhibited on the vehicle without the prior written approval of the Environment and Licensing Committee.

C For the purposes of Condition 4A of these Conditions the word "taxi" or "cab" whether in singular or plural, or any word of a similar meaning or appearance to either of those words and whether alone or in combination with any other word or words shall not appear in any such advertisement.

D The foregoing provisions of Condition 4 shall not apply to a sign or notice displayed on or from the vehicle which is prescribed under any enactment.

E The Proprietor of any private hire vehicle shall not display or cause or permit to be displayed on or above the roof of such vehicle any sign, notice, mark, illumination or other similar feature.

5. Private Hire Drivers

A The Proprietor shall not in the District act as a driver of a vehicle unless he has obtained a current Hackney Carriage/Private Hire Driver's Licence issued by the Council.

B The Proprietor shall not in the District:-

- (i) Employ or use any person as the driver of the vehicle for the purpose of any hiring, unless the person concerned has a current Hackney Carriage/Private Hire Drivers Licence issued by the Council.
- (ii) Permit any other person to act as the driver of a vehicle for the purpose of any hiring, unless the person concerned has a current Hackney Carriage/Private Hire Driver's Licence issued by the Council.

C The Proprietor shall maintain a list of the names and addresses of all persons employed or otherwise used by him for the purposes of driving

the vehicle and shall on request inform the Council of the contents of such a list.

6. Radios

The Proprietor shall ensure that any radio equipment fitted to the vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

7. Transfers

The Proprietor shall not assign or in any way part with the benefit of the Licence. If he/she transfers his/her interest in any vehicle to any other person he/she shall, not less than fourteen days before such transfer, give notice in writing thereof to the Council specifying the name and address to whom the vehicle is to be transferred. If, for any reason the Proprietor does not wish to retain the Private Hire Vehicle Licence, he/she must immediately surrender and return the Licence and Plate if appropriate to the Planning and Environment Department, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU.

PENALTIES

The Local Government (Miscellaneous Provisions) Act 1976 provides that any person who acts in contravention of the provisions of Part II of the Act, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 where no other specific penalty is expressed. In addition, such action may lead to the suspension or revocation of an existing Licence or the non-renewal of such a Licence.

Your attention is drawn to the various provisions contained in the 1976 Act which you are advised to obtain and read carefully.

APPEALS

Please see the attached guidance should you wish to appeal any of the licence conditions.

GUIDANCE NOTES ON APPEALING LICENCE CONDITIONS

Please read these notes carefully

If you are aggrieved by these licence conditions Section 300 of the Public Health Act 1936 governs how you should make your appeal to the Magistrates' Court.

Section 300(1) of the Act and Rule 34 of the Magistrates' Courts Rules mean that **your appeal must be made by way of Complaint for an Order**. This is a special form prescribed by the Magistrates' Courts (Forms) Rules 1981. You should contact the Magistrates' Court or your Solicitor immediately to obtain the correct documentation to ensure that your appeal is made correctly.

Unless you are exempt, **the Magistrates' Court will require you to pay a fee when you lodge your appeal**. You should contact the Magistrates' Court or your Solicitor immediately to find out how much you will have to pay.

Section 300(2) of the Act states that **you must lodge your appeal with the Court within 21 days of service of these conditions on you**. This means that the signed Complaint form and court fee should reach the Court within 21 days. The Court cannot accept appeals lodged once this appeal period has expired.

The Magistrates Court Office is at:

Nottingham Magistrates' Court
Carrington Street
Nottingham
NG2 1EE
Tel: (0115) 955 8111

Top Light survey

Gedling Borough Council Hackney Carriage Vehicle Licence Conditions, at condition 6 (iv) state that a roof sign shall be affixed to the roof of the vehicle in a proper manner and position at all times.

The reason for this condition is that it is necessary to be able to clearly identify the vehicle as a hackney carriage, as opposed to a private hire vehicle. This is crucial for the safety of members of the public to allow them to identify that a vehicle is a hackney carriage and as such is one that is entitled to ply for hire and can be flagged down. It also crucial in the identification of the vehicle as a hackney carriage to enforcement agencies countrywide.

A request has been made to remove this condition, the Environment and Licensing Committee wish to seek the views of the public and stakeholders in relation to this condition.

Q1 Do you consider that this condition should be removed?

Yes

No

Comments:

TOP LIGHT CONSULTATION

TOP LIGHT CONSULTATION

This report was generated on 19/01/22. Overall 40 respondents completed this questionnaire. The report has been filtered to show the responses for 'All Respondents'.

The following charts are restricted to the top 12 codes.

Do you consider that this condition should be removed?



Comments:

I feel it is important for this condition to remain so that officers are able to clearly identify the vehicle as a hackney carriage, as opposed to a private hire vehicle. I also feel it is important for the safety of members of the public to allow them to identify that a vehicle is a hackney carriage and as such is one that is entitled to ply for hire and can be flagged down. It also crucial in the identification of the vehicle as a hackney carriage to enforcement agencies countrywide.

Whilst actually working as a Hackney carriage vehicle then the sign should be displayed as to let the public know that it is a working Hackney carriage vehicle. When the driver isn't working then I believe it should be removed, or option to remove sign stopping confusion as to a working or none working vehicle. Also if the driver is on a personal holiday then why should they have to have a sign saying they are a taxi.

There have times where my vehicle has been broken into because people know taxi drivers carry cash and leave valuables such as sat nav inside of their vehicles. We will become more of a target to these criminals showing them that this is a taxi. Also we use our vehicles for personal use ie travelling to other cities, which doesn't look very good at all.

the top sign should be allowed to be removed when the taxi is not working for fares as it is nice going on holiday displaying your top sign and people trying to flag you down. And how doe's this work if you take the car abroad say like France.

After speaking to many customers they have no idea that there is a difference between a private hire taxi and a Hackney carriage. They only recognise London type taxis as Hackney carriages.

I believe Top sign only be used when cab drivers are working. Because I'm some areas Cab Drivers been attack by public when they were out with the families. Most Of the Cab Drivers Use the same car for family purpose and they will identify easily for the target.

Also change the rule of meter calibration certificate as majority of the Hackney drivers works for private hire and don't use the council meter, also how it is possible to update same dates twice in one Calendar year, this is unfair as the vehicle testing fee is already high enough for six months other councils change less than this for one year.

Yes because alot of drivers they only work as private hire they never ever worked as a Hackney..so having top sign on all time is unnecessary....

If out of area or not working then it will not attract attention. Also when parked the roof sign cannot be stolen and reduce the risk of car being broken into.

Many drivers working for private hire companies

It states on the plate that it is private hire or hackney and they are different colours the roof sign is out dated

Comments:

Should only be required while on duty.

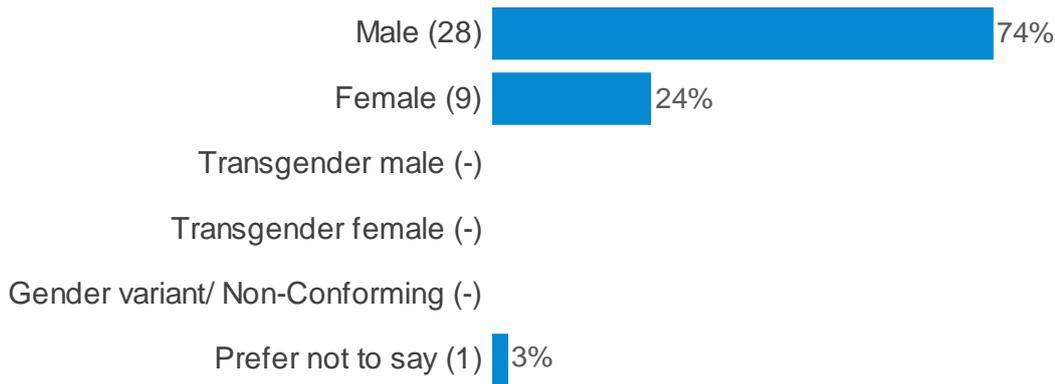
How else would I know it's a genuine taxi?

Gedling Hackney Carriages should be clearly identifiable so if I want to hire one I am able to see it easily. If the taxi roof sign condition is removed perhaps you could consider having a distinctive colour for them? There are lots of local companies who do cheap car wraps. Perhaps bright yellow like Derby or a combination of yellow and Gedling red. (A bit like the old Nottingham black and white cabs).

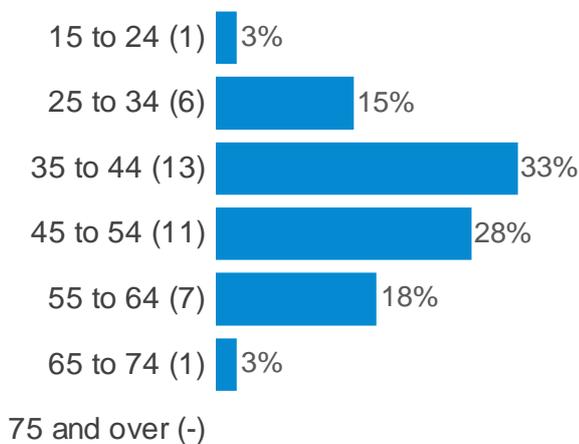
What is your postcode?

NG5 1GL	82dd	Ng36ga	NG7 7EJ	NG5 1DJ	Ng5	NG4 3AW
NG3 5SZ	Ng75nr	De238bp	Ng53gn	Ng720l	Ng15 9de	Ng5 8ax
NG3 5QQ	NG11 7EA	NG15 8FF	Ng5 3gh	Ng33dg	NG4 2NR	Ng3 6hz
NG5 6LU	Ng58ay	NG15 9gw	Ng58fj	ng4 4lr	NG5 4JA	NG56LH
NG5 4LR	Ng4 1af	NG7 6PT	Ng7 6hj	NG7 3BT	Ng41fg	Ng5
NG5 6FQ	ng60fq					

What is your gender identity?

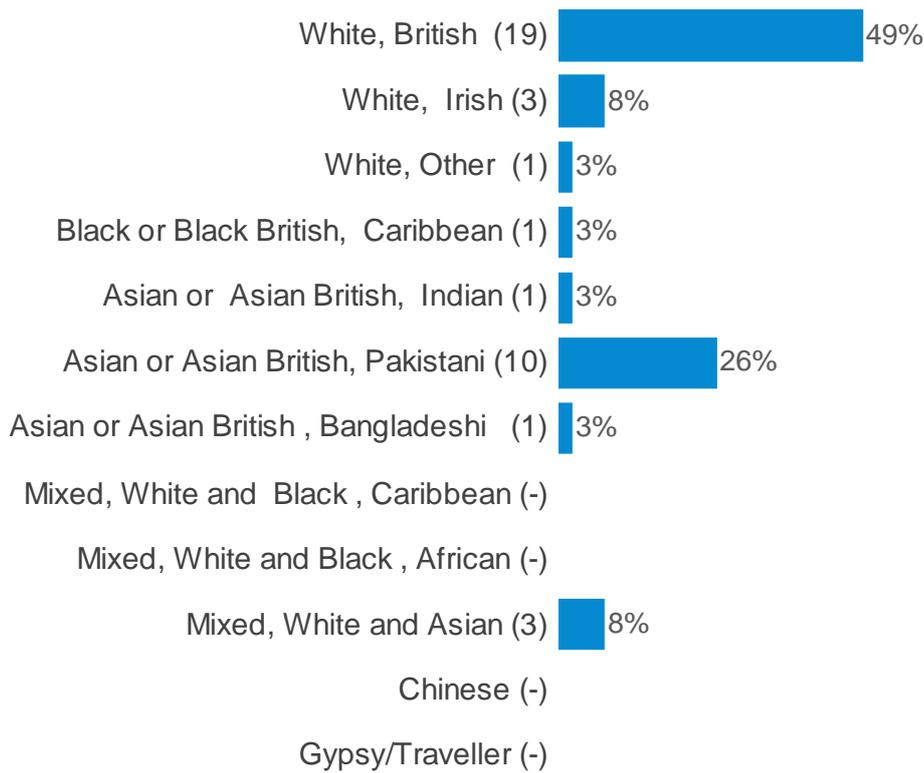


What age group are you in?

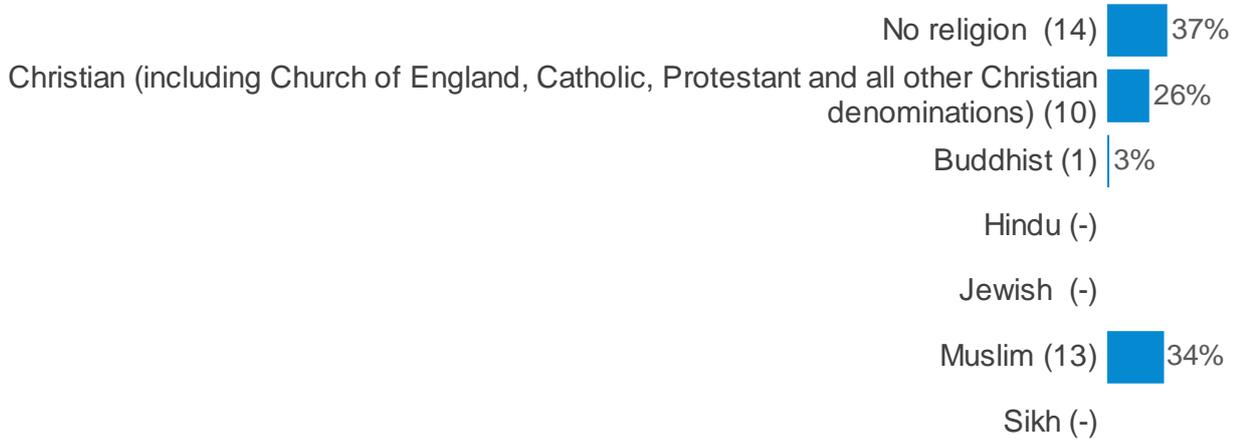


TOP LIGHT CONSULTATION

To which of these groups do you consider you belong?



What is your religion?



Any other religion:

Not applicable

Do you have a disability?



Which of the following best describes your sexual orientation?



Other sexual orientation:

Not applicable

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Appendix C

Top Light Consultation comments and officer responses

Consultation comment	Officer response
<p>I feel it is important for this condition to remain so that officers are able to clearly identify the vehicle as a hackney carriage, as opposed to a private hire vehicle. I also feel it is important for the safety of members of the public to allow them to identify that a vehicle is a hackney carriage and as such is one that is entitled to ply for hire and can be flagged down. It also crucial in the identification of the vehicle as a hackney carriage to enforcement agencies countrywide.</p>	<p>We agree with this comment.</p>
<p>Whilst actually working as a Hackney carriage vehicle then the sign should be displayed as to let the public know that it is a working Hackney carriage vehicle. When the driver isn't working then I believe it should be removed, or option to remove sign stopping confusion as to a working or none working vehicle. Also if the driver is on a personal holiday then why should they have to have a sign saying they are a taxi.</p>	<p>We agree that the top light should be displayed when the vehicle is working and as stated in Hawkins v Edwards a hackney carriage is always a hackney carriage for the full period of the licence and is subject any conditions for that period.</p> <p>When drivers are going on holiday and wish to use their vehicle for that period for domestic purposes they can surrender the plates at no cost to themselves and the Council will hold them in deposit until they retrieve them on their return.</p>
<p>There have times where my vehicle has been broken into because people know taxi drivers carry cash and leave valuables such as sat nav inside of their vehicles. We will become more of a target to these criminals showing them that this is a taxi. Also we use our vehicles for personal use ie travelling to other cities, which doesn't look very good at all.</p>	<p>Police advice is to never leave valuables in any vehicle and the security of the vehicle is the responsibility of the driver. There are identifiable marks on the vehicle such as plates as well as the top light. (also refer to the case as stated above)</p>

<p>The top sign should be allowed to be removed when the taxi is not working for fares as it is nice going on holiday displaying your top sign and people trying to flag you down. And how does this work if you take the car abroad say like France.</p>	<p>Please see the response above</p>
<p>After speaking to many customers they have no idea that there is a difference between a private hire taxi and a Hackney carriage. They only recognise London type taxis as Hackney carriages.</p>	<p>If there is already confusion for members of the public in identifying a hackney carriage the removal of the top sign will cause more confusion.</p> <p>Please the full report for alternative options to the top light.</p>
<p>I believe Top sign only be used when cab drivers are working. Because I'm some areas Cab Drivers been attack by public when they were out with the families. Most Of the Cab Drivers Use the same car for family purpose and they will identify easily for the target.</p>	<p>Please see response above.</p> <p>The Council have never had complaints/reports about drivers being attacked when out with their families for their vehicles being identified as a taxi.</p>
<p>Also change the rule of meter calibration certificate as majority of the Hackney drivers works for private hire and don't use the council meter, also how it is possible to update same dates twice in one Calendar year, this is unfair as the vehicle testing fee is already high enough for six months other councils change less than this for one year.</p>	<p>This comment is not relevant to the top light issue.</p>
<p>Yes because alot of drivers they only work as private hire they never ever worked as a Hackney..so having top sign on all time is unnecessary....</p>	<p>The driver has the option of licensing their vehicle as a private hire vehicle and not have to display a top light. Please see full report for reasons as to necessity of identifying a hackney carriage.</p>
<p>If out of area or not working then it will not attract attention. Also when parked the roof sign cannot be stolen and reduce the risk of car being broken into.</p>	<p>Please see previous response.</p>
<p>It states on the plate that it is private hire or hackney and they are different colours the roof sign is out dated</p>	<p>The distinguishing feature of a hackney carriage particularly from a distance is a top light which assist with enforcement.</p>

Should only be required while on duty.	Please see previous response

<p>How else would I know it's a genuine taxi?</p>	<p>We agree with this comment.</p>
<p>Gedling Hackney Carriages should be clearly identifiable so if I want to hire one I am able to see it easily. If the taxi roof sign condition is removed perhaps you could consider having a distinctive colour for them? There are lots of local companies who do cheap car wraps. Perhaps bright yellow like Derby or a combination of yellow and Gedling red. (A bit like the old Nottingham black and white cabs).</p>	<p>We agree with this comment. Please see the full report for alternative options.</p>

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My Ref:
Your Ref:
Contact: [REDACTED]
Date: 25 February 2022

Nottingham City Council
Commercial & Operations
Licensing
Central Police Station
Byron House
Maid Marian Way
Nottingham
NG1 6HS
Tel: 07572262275

Dear Sir/Madam,

Amendment of Hackney Carriage Vehicle Licence Conditions – Gedling Borough Council

I refer to the request to change the above condition for the removal of the requirement for a roof sign to be affixed to the roof of a Gedling Borough Council hackney Carriage and would make the following representations.

As a neighbouring licensing authority, Nottingham City Centre attracts licensed Private Hire Vehicles and Hackney Carriages from a number of different authorities and it is very important from a public safety aspect and for purposes of compliance and enforcement to be able to readily identify these vehicles.

Nottingham City Council will only licence a Hackney Carriage if a vehicle is permitted to be licensed by Transport for London i.e. they are required to be a London style Hackney Carriage, painted black with a white roof and white crests on the front doors, making them easily recognisable to both members of the public and authorised officers.

Currently, Gedling Borough Council does not prescribe such a requirement for vehicle design and the only way to be able to distinguish them from a Private Hire Vehicle is the vehicle licence plates fitted to the front and rear of the vehicle which are only visible when viewing the vehicle from the front and rear and the roof sign which can be seen from anywhere the vehicle is viewed and from a distance.

Roof signs also provide a distinguishable feature for both the public and authorised officers with the identification of the type of vehicle licence under which the vehicle and driver are operating.

I would also like to reference section 48 a) (ii) of the Local Government (Miscellaneous Provisions) Act 1976 which states that a district council shall not grant a licence unless

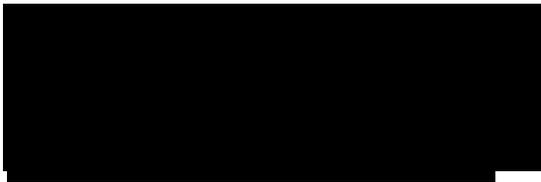
they are satisfied that the vehicle is not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage.

This legislation is designed to prevent the public being confused between a Private Hire Vehicle and a Hackney Carriage.

As Gedling Borough Council does not require Hackney Carriages to be of a particular design both their licensed Hackney Carriages and Private Hire Vehicles look very similar with the only the roof sign providing easy recognition between the two types of licensed vehicle.

If the Committee does decide to remove the condition that roof signs are displayed on Gedling licensed hackney Carriages, I would request that consideration be given to introducing a livery instead in order that the distinction between Gedling licensed hackney Carriages and Private Hire vehicles is maintained.

Yours sincerely

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Response to Report by the Head of Environment – Removal of Condition 6A (iV)

I will address the points raised by the Head of Environment in turn:

2.4 – Whilst the roof sign is visible from the sides, if a private hire vehicle has a roof sign affixed, which by law it is perfectly entitled to do, you still won't be able to tell the difference. The plates on the front and the rear, which state the word HACKNEY CARRIAGE in large letters, identify it as a hackney carriage. The roof sign does not.

4.2 – The report by the Head of Environment incorrectly refers to a '**golden triangle**', however this is not the legal term, and never has been, what is described by the report with regards to where private hire vehicles can work is also manifestly incorrect. A private hire vehicle and driver, can at all times, operate and pick up pre booked passengers anywhere within the United Kingdom, where it is licensed is immaterial, this is not unique to a hackney carriage vehicle.

The actual legal term used is a '**triple lock**', this is the operator, the vehicle and the licensed driver, and as long as they are all licensed by the same authority (any authority in the UK), the private hire vehicle can operate and pick up passengers anywhere in the UK. For example, if Lucy's Cars has an operators license issued by Wolverhampton City Council, a driver licensed by the same council, who is driving a private hire vehicle licensed by the same council, can take a booking to collect a passenger, anywhere in the UK, as long as that booking is made through Lucy's Cars, just like a hackney carriage vehicle can.

This is known as '**cross border hiring**' and is perfectly legal, as long as the '**triple lock**' is active, as was stated by The High Court (Administrative Division):

'So long as the relevant operator's license, vehicle license and driver's license are all issued by the same local authority, then it is irrelevant that any particular journey undertaken by a private hire vehicle, neither begins nor ends, nor passes through the area for which that authority is responsible.'

Blue Line Taxis LTD V The Council of The City of Newcastle Upon Tyne [2012] EWHC 2599 (Admin)

It was also then confirmed as the '**triple lock**' in **R (United Trade Action Group LTD) V Transport for London [2021] EWHC 3290 (Admin)**, a case from December 2021.

And further more, just to note, the '**Golden Triangle**' is actually a geographical area in South East Asia, where the borders of Thailand, Laos and Myanmar meet, along the Ruak and Mekong Rivers, it is where a large amount of the world's opium is produced, I know this because I learnt about it in GCSE History, many years ago. I have no idea why anyone would confuse a legal term in relation to the private hire and hackney carriage industry, with a geographical area that is used to grow opium, a narcotic that has hallucinogenic affects, was I hallucinating when I read the report?

4.4 – Again, this is irrelevant, private hire vehicles can do exactly the same, this is perfectly legal. Therefore the requirement to identify the vehicle as a hackney carriage when it is operating in another local authority area, remote or otherwise, is not necessary, because it is, at that point, when outside Gedling Borough, acting exactly as a private hire vehicle would.

4.6 – The report states that the fact the roof sign is on the vehicle identifies it as a hackney carriage, and therefore protects the driver from unnecessary enforcement when operating outside the area the vehicle is licensed in. Again, this is not true because a private hire vehicle can carry out exactly the same tasks as a hackney carriage when working outside the area the vehicle is licensed in, therefore the hackney carriage is just as likely to undergo an enforcement stop, as the private hire vehicle is. The report by the Compliance Manager at Nottingham City Council adds nothing to the argument. Section 48 is irrelevant, as the vehicle actually IS a hackney carriage.

4.7 – Again the argument is repeated, for a third time, and the point is irrelevant. Vehicles operating under a hackney license or private hire, can carry out exactly the same tasks outside of the area where they are licensed, there is absolutely no requirement for a member of the public or an enforcement officer, or police officer, to know the difference, because they are in essence the same. The only thing a passenger needs to be aware of is that the vehicle they are about to be carried in is a vehicle licensed to carry passengers, the plates provide this information.

5 – The report states that officers submit that the incidents would have occurred regardless of the FOR HIRE sign, this is in my view incorrect and is supported by the fact that when the incidents happen at the train station, it is only the vehicles that have FOR HIRE signs that are approached, private hire vehicles are not approached. The sign also makes the problem worse, as it gives the impression the vehicle is FOR HIRE, when it isn't. I have seen vehicles licensed by Broxtowe Borough Council approached, as they also have the FOR HIRE roof sign attached. I see Gedling Borough Council Hackney Carriages pulling into the train station pick up and drop off area behind me and in front, and those that are not displaying a FOR HIRE sign (when they should be), are left well alone, and I am the one approached as are others who are displaying the sign.

Again within 5, the report mentions inconvenience of enforcement when the hackney carriage is operating outside its licensing authority area, I do not wish to sound like I am a broken record, but this is not the case, as a private hire vehicle can operate anywhere in the UK, at anytime when taking pre booked passengers, just like a hackney carriage, see above.

6.1 – This refers to Appendix G, I wish to refer you specifically to Consultation Comment Two, and the Officer Response:

'When drivers are going on holiday and wish to use their vehicle for that period for domestic purposes they can surrender the plates at no cost to themselves and the council will hold them in deposit until they retrieve them on their return.'

If this were to take place it would lead to a clear and unequivocal breach of Gedling Borough Council Hackney Carriage Vehicle Licensing Conditions 2A, 6A (iv) and 8B.

The front and rear plate, and the roof sign must be affixed to the vehicle at all times (2A and 6A (iv)) and **this must be so regardless of how the proprietor operates the vehicle**, unless the vehicle license is revoked, suspended, surrendered or has expired (8B).

It is deeply concerning that the Head of Environment, who authored this report, is not aware of this, and has not removed this comment, which appears to condone the clear and unequivocal breach of the council's vehicle licensing conditions. If the comment is true, and the plates and roof sign can be removed when the vehicle is in personal use, it would be excellent, as this would resolve some of the safety issues raised in the consultation, handing in the plates would be the same as keeping them in the boot of the vehicle. However, currently it isn't possible, as it would be a breach of the conditions.

7.1 – With regards to the comments by Broxtowe Borough Council, again private hire vehicles can legally carry out the same tasks as a hackney carriage when outside their licensing area. The comment about differentiating it from an unlicensed vehicle is a good point, but the plates do that, just like they do for private hire vehicles. Again, safety is mentioned, but no argument is put forward as to why having the roof sign on the vehicle, ensures anyone's safety, 23 licensing authorities do not have a roof sign requirement for hackney carriages, are they operating unsafely then? I doubt it.

Kind regards,



Dear Councillors,

I make these representations to yourselves, as I made the original application to have Condition 6A (iV) removed. I will be at the meeting, and hope to address the committee.

I have been a hackney carriage driver for nearly two and a half years, in that time I have carried approximately 15,000 passengers, cumulatively, and have never received a complaint about my conduct or vehicle. At the very start of the pandemic, when in one week there were over 12,000 extra deaths in the UK, over and above the usual average, I stayed out and transported key workers, I transported Nurses, Health Care Assistants and Doctors who were working on coronavirus wards, I did this on many occasions free of charge, and in some cases at maximum capacity. At times, it felt like I was alone, however at times I saw others on the road most were taxis, I saw other drivers, travelling four up at maximum capacity, doing their job, whilst almost everyone else was inside. My operator was and is still outstanding, their concern for my safety was and is exceptional, and their concern for my level of financial income during the difficult periods was outstanding, however I cannot say the same for my licensing council.

During the pandemic, the years 2020 and 2021, the taxi trade (including all hackney carriage and private hire) has been decimated, from the statistics that I have obtained, the licensed trade with Nottingham City and surrounding councils, has lost exactly 1,410 private hire and hackney carriage vehicles between 31st December 2019 and 1st February 2022. The breakdown is as follows:

Gedling Borough Council: 482
Nottingham City Council: 676
Broxtowe Borough Council: 47
Erewash Borough Council: 42
Rushcliffe Borough Council: 163

This is a horrendous loss, of which Gedling Borough Council has suffered the worst, and I will not say much, except to say that people are angry and dismayed with the service level that is now provided by the taxi industry. The situation is horrific at peak times, and the worst I have had to deal with is a 90 year old lady who had no smart phone, and was at Nottingham Train Station, and she had waited for a taxi for so long. She begged me to take her, offered me money, but I couldn't. In the end I parked my vehicle in the five minutes stay area, and walked her to the staff in the concourse area of the train station, and asked them to help her get a taxi. They said they would, and I left thinking that I should have done more. This haunts me to this day, I should have taken her, no matter the consequences. However, with the propensity that Gedling Borough Council have to prosecute their drivers, especially recently a driver who was prosecuted, without in my view, any reasonable grounds, I perhaps took the more selfish option. This prosecution was unsuccessful in Crown Court, thankfully cooler heads prevailed.

As the country was pulled out of the second lockdown in April 2021, I started to notice a serious issue that was occurring regularly, and that it was a clear risk to the health and safety of drivers, passengers and members of the public at large. It had happened before the pandemic, but only on occasion. Condition 6A (iV) of the GBC Hackney Carriage Vehicle Licensing Conditions, requires a GBC HC to have a roof sign on the top of the vehicle at all times, the front of it bares the words FOR HIRE.

It was causing and still does cause incidents to occur of the following nature:

Members of the public have tried to open the car door when I am stationary at traffic lights, both with passengers on board and when I am alone, they have tried to get into the vehicle when I have been setting down passengers, they have also attempted to alight the vehicle when I have been waiting for a pre booked passenger. On two occasions now a member of the public has opened the front door of the vehicle, not knowing there was a passenger in the rear, and has attempted to hire the vehicle, they have BOTH stated the 'FOR HIRE' roof sign shouldn't be on the vehicle when not for hire. On many other occasions members of the public, who whilst I am waiting for a pre-booked passenger, have approached me and asked me to take them, I have told them I can't. Then as the pre-booked passenger has arrived, the member of the public has then started an argument over who will be conveyed. I have always intervened and done my best to defuse the situation, however on one occasion this didn't work and I was threatened with physical violence. I have had people step out in front of me as I am driving along the road, to try to get me to stop and take them, on Saturdays, specifically when it is raining it gets to its worst, this happened three times in one day, and it was dangerous. When I arrive at the train station to set down or pick up, there are times when I am and other drivers are 'mobbed', and people ask to be transported. On one occasion, in Nottingham City Centre at around 4am I was threatened with again physical violence for not being willing to transport a passenger without a booking.

What I have just said is only a snapshot, now, in May 2021 I made an application for Condition 6A (iv) to be removed, after I had to threaten to take GBC to court, it was finally put before yourselves on 13th July 2021, along with a report from Gedling Borough Council which recommended on safety grounds, which no rationale was provided for, and identification of HC vehicle concerns, that the condition was kept in place. I appeared before you, and was impressed by the time and depth with which you considered my application, you decided to reject the report from the Head of Environment and instructed a consultation. This was an excellent response, and I thank you for this, you gave me hope that we were moving forward, and your considerations were clearly outlined.

At the end of June, and through July, the country returned to normal and restrictions were fully released, streets were full and everything was open, to say it was busy, was an understatement, people had been restricted for far too long and were letting off steam. Due to the lack of taxis, the situation as I have described above, took a turn for worse, and after three incidents in the space of an hour, one which resulted in me having to take evasive action to avoid a member of the public who had stepped out into the road with his hand outstretched to hire me, I decided I had to act.

I wrote a **formal urgent application** to yourselves for condition 6A (iv) to be suspended on health and safety grounds, whilst the consultation took place and you came to a formal decision, and in accordance with the procedure under Section 100B (4) (b) of the Local Government Act 1972, I asked it be sent to yourselves to be considered at the ELC Meeting on 10th August. I sent it to Paul Gibbs one of your Licensing Officers, who has always been brilliant and never been wrong, and he stated in communications (which I have obtained), correctly, that it was a matter for the chair to decide if it should be considered.

However I received no further communications, and it wasn't included in the agenda for the 13th August and I was then notified, after having to ask the question, on 6th September that it was decided it wasn't to be considered. I assumed, incorrectly as I now know, that the chair, in line with Section 100B (4) (b) had decided not to consider it, and that you had approved it not being

considered. I have now discovered this was not what happened.

It now would appear that the legislative procedure was apparently circumvented, and that a member of staff appears to have ensured it was kept from the committee, as she herself felt it wasn't urgent and advised as to the decision and that it was not even sent to you, even though she has informed me there was 'no decision as such', which is absurd. I was never told this, nor did she even do me the courtesy of speaking to me, or give me the opportunity to make representations to her as to the urgency, it was just shelved. **I have made a formal complaint about this, and was advised at both Stage 1 (Director Level) and Stage 2 (Chief Executive Level) of the complaints process, that in effect, the authority of consideration of any urgent applications, lies with the Section 5 Monitoring Officer and Lead Legal Adviser, Francesca Whyley, or another Legal Adviser, and not the chair of the meeting. In effect, any urgent applications can be kept from the committee, you may never even be told about them, I am happy to send you the outcomes at both stages, and the complaint I made.**

Twelve days after my application was made, as I will explain below, a taxi driver in Birmingham was stabbed and his vehicle vandalised for refusing to take passengers without a booking. My application was urgent, and it should have been provided at least to the chair of the committee for a decision, it wasn't, this in my view is a serious concern, and impacts the democratic process.

As I wasn't of course aware of the obstruction and was just continually told that the consultation would be followed through, as and when, and due to this and in effect a wall of silence, and the urgency of the situation, I had no choice but to make an application to the court. This was partly made on the grounds of the incident that occurred in Birmingham on 22nd August 2021, a driver refused to take passengers without being pre-booked, and for this his front windows were smashed and he was stabbed. He was taken to hospital with serious injuries, and luckily survived, a man is currently awaiting trial I understand, for this senseless act of violence.

On 13th December my application was heard in court, and due to the fact that I had filed the case earlier than the condition was served at my last vehicle inspection, the Judge stated he couldn't hear it, but would happily hear it if I served it again at the appropriate time.

On the 9th of December, the consultation was started, the wording, as you have seen, is in my view appalling and objectively cannot be in anyway said to be impartial, to me it looks like it was written to achieve a specific outcome. I raised a complaint about this, and at Stage 1 as determined by again, the Section 5 Monitoring Officer, I was informed that my complaint could not be actioned, as a consultation wording and the conduct of it, was outside the complaints policy, I have reasonable grounds to believe that she herself advised and signed off the wording of the consultation, I know for certain however that she was involved in the process, she has admitted this, and I am awaiting confirmation on how deeply, so how she was permitted to investigate a complaint about her own activities, I don't know, but no matter. At Stage 2 after I sent a copy of the complaints policy to Alison your Director of Corporate Resources, showing clearly that in my view the consultation was within the complaints policy she stated it wasn't. This will be referred to the ombudsman, I will update you on the decision.

With regards to my assertion that the consultation wording was done to achieve a specific outcome, I have obtained an email that was sent from one of your legal officers to again the Section 5 Monitoring Officer Francesca Whyley, who is also your Head of Governance, Customer Services and your lead legal adviser, it contains a file with a perfectly reasonable and independent

consultation question, however it also states the following, verbatim:

'I know this will not be high up on your list but I have drafted the attached to be included at the end of the standards consultation. I am not really happy about the whole thing but I cannot see how we cannot go out to consultation.'

There are no further written communications between that legal officer and Francesca Whyley, until the legal officer then forwards the consultation question to her again, that is the final authorised version, and in my view, the unlawful and biased version, written to try and achieve a specific outcome, of the condition remaining. I have reasonable grounds to suspect, that your Section 5 Monitoring Officer discussed the consultation question, and in essence, potentially may have rigged it to achieve a specific outcome.

I do not know how the kind of behaviour in the email is to be tolerated, the democratic mandate you gave on 13th July was clear, when you order a consultation, it is to be independent, fair and impartial, and discussions about how to avoid consultations that have been ordered, should not even take place. This must be formally investigated.

I have obtained an email that specifically states that before the consultation can start, they are waiting for the question from 'Fran', I can only assume that this is your Section 5 Monitoring Officer, Miss Whyley.

No matter, you have seen the results of the consultation, and the response, even with the wording as it was, and that in my personal opinion it was potentially rigged to ensure a specific outcome in favour of keeping the roof sign, **it has still come out in favour of removing condition 6A (iv)**. It has even revealed more safety issues that this condition causes supporting the fact that it needs to be removed. Gedling Borough Council have a duty under health and safety legislation, to take all reasonable steps to ensure the safety of their drivers, members of the public and passengers, this condition is causing health and safety problems, and needs to be removed.

There has been an argument put forward by GBC that the roof sign is there for safety, however there has NEVER been any rationale put forward for that, just saying it is so, certainly doesn't make it true. There is an argument over the vehicle having to be distinguishable from a private hire vehicle, however looking at the two vehicle plates on the front and rear of your licensed vehicles, they are clearly different, one is ORANGE and says PRIVATE HIRE the other states HACKNEY CARRIAGE and is BLUE. Roof signs are also used lawfully on private hire vehicles at many licensing councils up and down the country, therefore the argument that the roof sign clearly shows the vehicle is a hackney carriage, has no substance. I have also contacted other licensing councils in the UK and they have informed me that they will always entertain applications to have roof signs on PRIVATE HIRE VEHICLES in relation to advertising taxi company details.

Section 3 (2) of The Health and Safety at Work Act 1974 states the following (hackney carriage driver added for clarity):

*'It shall be the duty of **every hackney carriage driver** who conducts an undertaking of a prescribed description to conduct the undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.'*

I ask you to let drivers decide, is the risk of displaying the roof sign too great in line with their responsibilities under legislation, or is it something they are willing to do, to get business and which they think is reasonable to leave affixed to the roof of their vehicle? It should be our choice, it should not be an absolute. When out operating, mostly alone, sometimes late at night and early in the mornings, whilst others lay asleep in bed, we transport people who have no alternative. We do not deal in absolutes, we do not have the privilege of black and white, we live in the grey.

You are asked on many occasions to apply the 'fit and proper' test as to whether or not you license drivers, we are held to the highest of standards and rightly so, you are required to ask yourself, would you let your daughter/son/mother/father be carried as a passenger by this driver?

I ask you also apply the same standard to a hackney carriage with Gedling Borough Council. If your young daughter is in a hackney carriage vehicle, or about to get into a hackney carriage vehicle at 2am, in the pitch dark, would you think it fit and proper that a hackney carriage driver, who is deeply concerned about her health and safety, be permitted to remove the FOR HIRE roof sign, to make sure she isn't witness to, or the subject of a serious incident that is brought about by that specific sign?

Finally, I ask you to imagine the following situation:

It is 1am about three weeks from now, a young woman is approaching a Gedling Borough Council hackney carriage, which she has pre booked with an operator, she has finally managed to get a taxi, as she has been cancelled on and refused so many times and waited so long, as the trade is decimated. She is concerned as it is late at night, and it is very, very dark. Suddenly a man runs in front of her and starts talking with the driver and asking him for transport. The young woman then approaches the vehicle, and the driver lets her inside, as she is his passenger. The man starts arguing with the driver, and gets aggressive, shouting and demanding that he should be taken, as he was first and the sign says FOR HIRE. He starts making threats, and offering violence. She is frightened and asks the driver to please take her and not leave her stranded. The driver drives off with her on board, she is shaking and scared.

Now, imagine this is your daughter, and you could have made the decision to allow hackney carriage drivers to make a choice as to whether or not to have that FOR HIRE sign on the roof? You could have prevented this, and if you choose not to, it is on you.

It's not my choice, it's not your Section 5 Monitoring Officer, Francesca Whyley's choice, it is YOUR choice. I ask you to give us the latitude and understanding and allow us to make the decision as to whether or not the roof sign is on our vehicles, to decide to keep members of the public, ourselves and passengers safe.

Thank you,



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