

Report to Environment and Licensing Committee

Subject: Amendment of Hackney Carriage Vehicle Licence Conditions

Date: 13 July 2021

Author: Head of Environment

Purpose

To inform Members of a request to a change to the Hackney Carriage Vehicle Licence Conditions, Condition 6 Roof Signs, by removing the requirement for a roof sign to be affixed to the roof of the vehicle in a proper manner and position at all times. A copy of the written request can be found at Appendix A

Recommendation(s)

THAT:

- 1) Members do not make any changes to Hackney Carriage Vehicle Licence Conditions.**

1 Background

- 1.1 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.
- 1.2 Such provision of the Act is provided under s47 (1) which states:

A district council may attach to the grant of a licence of a Hackney Carriage under the Town Police Clauses Act of 1847, (1847 Act) such conditions as the district council may consider reasonably necessary.

- 1.3 The Act also provides that a district council may require any Hackney Carriage licensed by them to be of such design, or appearance or bear distinguishing marks to enable the vehicle to be clearly identified as a Hackney Carriage.

Such provision of the Act is provided under s47 (2) which states:

Without prejudice to the generality of the foregoing subsection, a district council may require any Hackney Carriage licensed by them under 1847 Act, to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a Hackney Carriage.

- 1.4 Currently, the authority does not prescribe any specific vehicle design, make or model to which a Hackney Carriage licence may be granted. 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) and the roof sign, which is visible regardless from where the vehicle is viewed.
- 1.5 The High Court judgment on Stockton-on-Tees Borough Council v Fidler, Hussain and Zarmanian [2010] EWHC 2430 (Admin), had a significant impact not only on 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 the licensing authority 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.
- 1.6 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.
- 1.7 Following the introduction of the Deregulation Act 2015, which amended the Taxi and Private Hire licensing regime, a review of all driver, operator and vehicle licence conditions and the vehicle specification, inspection and testing regime was undertaken. On 9th February 2016, following the review, Members of Environment & Licensing Committee approved, that after consultation, the Hackney Carriage Vehicle Licence Conditions presented at the time, be attached to the grant of a Hackney Carriage vehicle licence from 1st April 2016.
- 1.8 On 11th September 2018, following a request from a licensed Hackney Carriage Driver, Members of Environment & Licensing Committee were asked to consider an amendment to 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.
- 1.9 The amendment to the Conditions, considered by Members in September 2018, 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.

- 1.10 Following a 4-week consultation period, 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 B.
- 1.11 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.
- 1.12 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.
- 1.13 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.

2 Proposal

- 2.1 It is proposed that the Hackney Carriage Vehicle Licence Conditions are not changed to incorporate the request as set out in the written request – Appendix A

3 Alternative Options

- 3.1 That the Hackney Carriage Vehicle Licence Conditions are amended to incorporate the request as set out in the written request – Appendix A

4 Financial Implications

- 4.1 There are no financial implications.

5 Legal Implications

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 provides for any person aggrieved by any conditions attached to a Hackney Carriage Vehicle Licence may appeal to the Magistrates Court.

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 – Application for change in Hackney Carriage Vehicle Licensing Conditions
- 8.2 Appendix B – Hackney Carriage Vehicle Licence Conditions (Current)

9 Background Papers

- 9.1 None