

Report for Resolution

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Report To Regulatory Committee
24 November 2009

Report of Head of Legal, Regulatory and Democratic Services

Subject Hackney carriage vehicle specification

Purpose

That members consider licensing the Peugeot E7 Series II as a hackney carriage vehicle.

Recommendation

In determining this report members have the following options:

1. To reaffirm the existing policy of permitting only vehicles that meet the existing hackney carriage vehicle specification to be licensed as hackney carriages.
2. To agree to revise the existing hackney carriage vehicle specification to extend the maximum acceptable dimensions as necessary to enable the licensing of the applicant's vehicle as a hackney carriage.
3. If members agree resolution 2 then the Head of Legal, Regulatory and Democratic Services be instructed to review the remainder of the existing hackney carriage vehicle specification and to bring a report to a further meeting of your committee.

Financial Consequences

The financial consequences of this report are nil.

Corporate Objective/Service Plan Priority

The report helps to achieve the service plan priority of protecting the interests of the public through the administration of the licensing function.

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Background Documents

Nil

Background

1. The City Council's power to licence hackney carriages is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

2. Section 47 (1) of the Local Government (Miscellaneous Provisions) Act 1976 states:-

“A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary”.

3. The Council has adopted conditions to be attached to the grant of a licence of a hackney carriage, one of which states:-

“Only vehicles which conform to the standard specifications for hackney carriages as from 1st January 1991 may be used as a hackney carriage...”

4. The Council first adopted a hackney carriage vehicle licence specification in 1984, which has been subsequently amended over the years, most notably to provide for the carriage of wheelchair and ambulant disabled passengers.

5. An application to licence the Peugeot E7 Series II (E7) has been received from Patrick Keenaghan and Allied Vehicles Ltd, details of which are attached as Appendix A to the report. The E7 does not meet the current hackney carriage vehicle specification and the applicants have requested that the council amend, or make exception to, the current specification to allow the E7 to be licensed as a hackney carriage.

Previous application

6. At the meeting of the council's Regulatory Committee on 13 November 2007, members considered a previous application from Mr Keenaghan to licence the E7 as a hackney carriage. Members resolved to reaffirm the existing policy of permitting only vehicles that meet the existing hackney carriage vehicles specification to be licensed as hackney carriages.

7. Following the determination, Allied Vehicles Ltd sought a judicial review of the committee's decision. These proceedings were withdrawn in July this year and as part of the terms of settlement the council agreed to consider a fresh application for this particular vehicle within three months from date of receipt.

Consultation

8. The following organisations / groups have been asked to submit their views on the suitability of the E7 being licensed as a hackney carriage in Norwich:

- Existing hackney carriage vehicle proprietors;

- Vehicle manufacturers;
- Norwich Hackney Trade Association;
- Disabled Persons Transport Advisory Committee;
- Norfolk Constabulary;
- Transport and General Workers Union;
- Norwich City Centre Licensing Forum;
- Norfolk Coalition of Disabled Persons;
- Norwich Access Group;
- Head of Transportation & Landscape (Norwich City Council);
- Age Concern; and
- Norfolk County Council.

Comments have also been invited via the consultation section of the council's website.

9. The responses received to the consultation are attached to the report. Those in favour of licensing the E7 are at Appendix B1, those against licensing the E7 are attached at Appendix B2 and those with a neutral stance are attached at Appendix B3.

10. Five other licensing authorities were asked to respond to a number of specific questions and the results of this consultation are set out in a table attached at Appendix C to the report.

Access for people with disabilities and impairments

11. Section 49A(1) of the Disability Discrimination Act 2005 provides as follows:

"Every public authority shall in carrying out its functions have due regard to –

- (a) the need to eliminate discrimination that is unlawful under this Act;
- (b) the need to eliminate harassment of disabled persons that is related to their disabilities;
- (c) the need to promote equality of opportunity between disabled persons and other persons;
- (d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
- (e) the need to promote positive attitudes towards disabled persons; and
- (f) the need to encourage participation by disabled persons in public life."

12. This means that the council as a public authority has a 'general duty' to ensure that disabled people are not at a disadvantage as a result of any policy decision, and that the council is able to promote equality of opportunity. This should be interpreted as meaning that the council ensures that as many options as possible are available for people with disabilities in Norwich considering the range of disabilities involved.

13. The council is under a statutory duty to conduct a Diversity Impact Assessment (DIA) on all its policies, including the policy of only licensing as hackney carriages vehicles that meet the hackney carriage vehicle specification.

14. Firstly an initial screening exercise was carried out to identify whether the policy impacted adversely on any of the identified groups. A copy of this assessment is attached at Appendix D to the report.

15. On the basis of the initial screening it was determined that a full impact assessment should be carried out and a copy of this is attached at Appendix E to the report.

Alma Lunt & Allied Vehicles Ltd v Liverpool City Council

16. On 28 March 2008 the Licensing Committee of Liverpool City Council resolved to refuse an application from Allied Vehicles Ltd to licence the E7 as a hackney carriage. Subsequently, Allied Vehicles Ltd together with a wheelchair user Alma Lunt, applied for a judicial review of the decision.

17. A summary of the result in the Liverpool City Council case which had judgement delivered in July 2009 is attached at Appendix F to this report. Norwich city council's solicitor, Yvonne Blake, has given advice regarding the legal implications of that case and in relation to the existing vehicle specification.

Department of Transport Guidance

18. In October 2006 the Department of Transport published a Best Practice Guidance for Local Authorities in respect of Taxi and Private Hire Vehicle Licensing. Consultation on a draft revised version of the Best Practice Guidance took place earlier this year, with a closing date of 28 July 2009 for comments. Currently no revised Guidance has been published. The extracts in paragraph 15 below remain unaltered in the draft consultation version and the 2006 Guidance.

19. Under the general heading of "Vehicles", paragraphs 18 – 20 of the 2006 Guidance deal with the subject of "Specification Of Vehicle Types That May Be Licensed".

"18. The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

19. Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.

20. It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. (There are at present only two designs of purpose-built taxi.) But of course the purpose-built vehicles are amongst those which a local authority could be expected to license.

Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers)."

20. An additional heading of "Accessibility" was contained in the draft revised version of the Best Practice Guidance, which was noted by the Department for Transport as being subject to change due to emerging conclusions from the February 2009 accessibility consultation exercise. However, extracts from this heading are set out below:

13. Local licensing authorities will want to consider how accessible the vehicles they license as taxis are for disabled people. Disabled people often use wheelchairs but it should be remembered that there are many who do not and who have other needs that ought to be taken into account.

22. The Disability Discrimination Act 2005 amended the DDA 1995 and lifted the exemption in Part 3 of that Act for operators of transport vehicles. Regulations applying Part 3 to vehicles used to provide public transport services, including taxis and PHVs, hire services and breakdown services came into force on 4 December 2006. Taxi drivers now have a duty to ensure disabled people are not discriminated against or treated less favourably. In order to meet these new duties, licensing authorities are required to review any practices, policies and procedures that make it impossible or unreasonably difficult for a disabled person to use their services.

Transport for London

21. On the 15 December 2005, Transport for London's Public Carriage Office (PCO) issued the results of the Conditions of Fitness review for London's taxi industry. A copy of a press release in respect of this matter is attached at Appendix G.

22. The PCO Conditions of Fitness (CoF) are very similar to the Hackney Carriage Vehicle Specification (HCVS) adopted by the City Council. Both the CoF and HCVS have an identical requirement in respect of the turning circle of vehicles. Members will note that this requirement was retained by the PCO following the review.

Environmental Issues

23. When the previous application to licence the E7 was considered, members requested a comparison of the environmental impact of the current licensed vehicles and the E7. The table below compares manual versions of the TX4 (the latest vehicle that complies with the existing Hackney Carriage Vehicle Specification) and the E7.

Vehicle type	TX4	Peugeot New E7
Urban: miles per gallon / (litres/100km)	28.0 (10.1)	30.4 (9.3)
Extra Urban: miles per gallon / (litres/100 km)	41.5 (6.8)	43.5 (6.5)
Combined: miles per gallon (litres/100 km)	36.2 (8.0)	37.7 (7.5)
Carbon dioxide (g/km)	211	198
Carbon monoxide (g/km)	0.321	0.392
Regulated emission (Nox) standard (g/km)	0.313	0.266
Regulated emission (HC + Nox) standard (g/km)	0.371	0.031
Particulates (g/km)	0.045	0.034
Compliance with EC vehicle end-of-life directive	Yes	Yes
Number of passengers (rear)	5	6
Noise Level db(A) moving	73.8	74.9

Revision of existing policy (additional vehicles)

24. The existing hackney carriage vehicle specification details the requirements that vehicles must meet before they can be licensed. The E7 does not comply with the specification in relation to the “turning circle” of the vehicle. The current specification states:-

“(i) the vehicle must be capable of being turned on either lock so as to proceed in the opposite direction without reversing between two vertical parallel planes not more than 8.535 metres apart.

(ii) the wheel turning circle, kerb to kerb, on either lock must not be less than 7.62 metres in diameter.”

25. If members are minded to approve the E7 for use as a hackney carriage in Norwich, the existing vehicle specification, and in particular the section relating to the turning circle will have to be amended. In doing so this will allow vehicles other than the E7 to be licensed as hackney carriages.

APPENDIX C

	City of York	Birmingham City Council	Peterborough City Council	Warrington Borough Council	Edinburgh City Council
What is the councils experience of licensing the E7 as a hackney carriage?	The councils experience of testing and licensing E7 has been positive. 7 seaters, very little mechanical issues. 7 HC vehicles currently licensed with CYC.	We have had no major problems with this vehicle, in fact Birmingham has gone down the route of agreeing to licence any purpose built hackney carriage so long as it is wheelchair accessible and has M1 certification. New models are subject to inspection by officers before agreement is given to licensing the type. We have had instances where drivers have requested that the tracking fitted to a vehicle to allow the bench seat to slide back to accommodate a wheelchair passenger is left off their build to reduce costs. This isn't obvious unless each individual vehicle is inspected before a licence is issued, but it can render a vehicle incapable of carrying a wheelchair. We	We do not at present licence the E7 as a hackney carriage but some companies do use them as private hire vehicles.	We have been Licensing these vehicles since 2001 as hackney carriages and have had no reported incidents / problems reported to us in relation to the vehicle.	The E7 was accepted for use as a taxi in Edinburgh in 2006. Previously Edinburgh had followed the Metropolitan Conditions of Licence. There are no reports of any problems with these particular vehicles and the number that are used as taxis has continued to grow.

		have found that liaison with manufacturers and dealers helps as they will ensure that customers cannot buy a model which is not suitable to be licensed in our controlled district.			
Are there problems with the turning circle or is this irrelevant?	Irrelevant.	This hasn't proven to be a problem.	The turning circle would be a problem on some of the hackney ranks if the E7 was licensed as one. The LTI TX's manage to turn around in the street' but I believe the E7 would require a 3-point turn.	No problems experienced. Although there was an allegation by one owner that it was impossible to turn the vehicle around a 'mini' roundabout in the town centre - our own independent trials found this not to be the case - rather a question of poor driver ability.	The turning circle has not been an issue. Prior to accepting the vehicle the Council commissioned an independent review of the full Conditions of Licence. The Review investigated (amongst other matters) the turning circle requirement that was previously in the Conditions of Licence and found this was not a reasonable requirement for Edinburgh.

How easy is it for those people with larger wheelchairs to use the vehicle?	This question can only realistically be answered by those people who use larger wheelchairs and have experienced being a passenger in this type of vehicle.	This is not a straightforward question unfortunately, the van derived vehicles are probably slightly better suited to loading and securing the larger wheelchairs that the traditional Metrocab and TX series vehicles, but the lack of standardisation amongst wheelchair manufacturers coupled with increasing customisation by users, means that introduction of these vehicles is by no means a universal panacea. Some users will still find that it is impossible to load, or safely secure their chair in an E7.	As the E7 is not licensed as a wheelchair accessible vehicle, I am not aware of what size wheelchairs can be used or how they are secured. It is of course the driver's responsibility to ensure that all passengers are safe.	Not practical - the vehicle takes a standard N.H.S. wheelchair. Given that there are over 500 different wheelchairs - we accept that this provision would be impractical for the 'day to day' Hackney vehicle.	The E7 has not presented a problem for wheelchair accessibility to date. All of Edinburgh's taxi drivers have been trained in assisting passengers who use wheelchairs. The training is provided by a local expert in the field. The E7 was inspected by this expert and the vehicle was assessed as fit for use in this regard. Advice given to all drivers is that wheelchair passengers must be assisted in and out of the vehicle at a raised kerb (this is true of all varieties of taxi).
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Can those and other wheelchair users be safely secured for travel?	All wheelchair access vehicles (including E7s) must demonstrate at the vehicle test/annual test their securing equipment for wheelchairs. A wheelchair access vehicle, will not be licensed until this demonstration (by the proprietor/driver) has been completed and the taxi assistants are satisfied it has met the CYC licence conditions, in relation to transporting wheelchair passengers.	If the chair fits, there is no reason why it can't be safely secured, these vehicles are fitted out inside like a conventional hackney carriage, with similar fixtures and fittings, grab handles etc. to the more traditional vehicles. Drivers do need to be familiar with their straps and locking devices and must know how to safely secure wheelchairs and passengers. That said, the same applies to conventional taxis if wheelchair passengers are to be carried safely and securely.		As previous.	The E7s licensed for use in Edinburgh have the traditional taxi layout with a partition between the passengers and driver. This layout means that only one wheelchair user can be carried.
Are there any issues with recognisability of the vehicle as a hackney carriage?	No issues with recognisability. All HC must adhere to CYC licence conditions (in relation to how the vehicle is presented when working e.g top light, external plate etc). All HC vehicles now have the CYC crests visible on their vehicles. This condition was brought in Summer 09.	In Birmingham we have required that all van derived hackney carriage vehicles are supplied in black only. We insist that they are fitted with the traditional orange light and do not allow full body advertising liveries. We also have a restriction on MPV type private hire vehicles preventing them		No comment	No comment

		from being black, we have had no complaints of hackney vehicles being confused with private hire, or vice versa as a result of licensing these types.			
Are there any safety issues around the use of the vehicle in this way?	The only other safety issues are those which all vehicles undergo in order to be become a licensed vehicle. MOT (if applicable) and a vehicle test, which is carried out by 1/2 taxi licensing assistants and a vehicle technician/mechanic. The vehicle must comply with the CYC vehicle licence conditions, mechanically and presentation.	Concerns have been expressed by those opposing the licensing of these types (mostly drivers already owning a TX type, or Metrocab) about the external steps fitted to some models to aid access/egress from the vehicles, however I am not aware of any accidents, or injuries which have been attributed to those steps.		We discourage drivers to carry 'sideways' facing chairs which would therefore be not properly secured. We have just received our initial draft of our latest 'demand survey'. We did include a mystery wheelchair shopper' Whilst we do not know which specific vehicles he was carried in - the results of carriage and securing were very very positive.	There are no other safety issues regarding the use of this vehicle in this way.