

EAST RENFREWSHIRE COUNCILLICENSING COMMITTEE16 August 2016Report by Chief Officer – Legal & ProcurementCIVIC GOVERNMENT (SCOTLAND) ACT 1982 –
LOCAL CONDITIONS OF BOOKING OFFICE LICENCES**PURPOSE OF REPORT**

1. For the Committee to consider a change of Policy on the local conditions attached to booking office licences.

RECOMMENDATIONS

2. The Licensing Committee is asked to consider amending the local conditions attached to a booking office licence as follows:-

(i) delete existing condition 12 and replace with the following:-

12. "The Licence holder may retain electronically the records referred to in conditions 8, 9 and 15 in which case a printed version must be provided within 24 hours of the enquiry by either the Licensing Enforcement Officer, Police Scotland or an authorised officer of the Council. Where the records are not kept electronically there must be a printed version kept within the premises at all times."

(ii) Add a new condition 24 as follows:-

24. "If the holder of this licence or any connected person (being any partner in a partnership or director or secretary of a company) to the holder of this licence obtains an operator's licence in terms of Section 10 of the Act and the number of such licences held by that person is 3 or more then, in that case, every third vehicle licenced must be a wheelchair accessible vehicle. This condition shall apply whether or not the vehicle being operated is a taxi or a private hire vehicle", and/ or

(iii) Such other new condition(s) as the committee may agree to having considered the proposals by a member of the public at Appendix 1

(iv) To remove the taxi operator licence limit .

FINANCIAL IMPLICATIONS

3. It is commonplace for some booking office licence holders to also hold operator's licences for vehicles which are then leased or hired to drivers who in turn will operate their business from the booking office concerned. As booking office

licence holders are already providing these vehicles, the financial implications should not be considerably increased, although it is recognised that a wheelchair accessible vehicle may be more expensive. It should however be noted that it is not compulsory to operate any vehicles and if they do choose to do so it is only one third of the vehicles which need to meet this specification. It should also be noted that the Committee has recently agreed to increase the entry age for a wheelchair accessible vehicle to 7 years and the maximum age of a wheelchair accessible vehicle to 12 years which should assist with the financial implications.

4. Alternatively, there are other options in Appendix 1 which may have more severe financial consequences for booking office licence holders.

BACKGROUND

5. The Committee will be aware that East Renfrewshire Council has already adopted the following Equality Outcome in its Equality Mainstreaming Report and Equality Outcomes 2013-2017 "wheelchair users are confident that they can hire a wheelchair accessible taxi at a fair cost when they need one" (Chief Executive's Department (Legal Service). (SOA 3.5.)

6. The Committee will also be aware that it has taken steps in 2015 and 2016 to try to increase the number of wheelchair accessible vehicles by offering certain incentives to encourage their use. However, uptake remains very low and a suggestion that booking offices who also operate as vehicle operators in providing vehicles for those working for the booking offices should have a condition added to their licence which demands that a proportion of their vehicles should be wheelchair accessible, thus spreading the burden from owner drivers to booking office operators as well.

REPORT

7. In terms of the Civic Government (Scotland) Act 1982, the Council is entitled to add local conditions to the existing mandatory conditions for a booking office licence. These additional conditions must be reasonable in nature. It is unknown whether or not requesting a booking office to supply wheelchair accessible vehicles is an example of a reasonable local condition. No other authority, to my knowledge, has any such condition and the condition is therefore is not tested.

8. The Council may consider that the need to increase wheelchair accessible vehicles and the limited nature of the request (been that it only applies to multiple vehicle operators who also have booking office licences) is enough to make at least the recommendation 2 (and10) (ii) condition reasonable.

9. There are some matters arising from Appendix 1 which the Committee should keep in mind when considering the proposals in that Appendix.

- (a) There is reference to a taxi licence limitation. Such a limit requires a detailed survey of unmet demand to be carried out on a regular basis. The cost of this is passed on to Licence holders and would add in the region of a100% increase in the licence fee. Alternatively the committee could agree to remove the limit on numbers. There is no evidence at present of an oversupply of Taxis but there is

evidence of a lack of supply of WAVs and a limit on numbers would not improve this position. The committee is therefore asked to remove the taxi operator licence limit.

- (b) Three year free licence fees are already available for WAV operators.
- (c) The age of WAVs was recently increased to 12 years. Increasing further to 15 years is not recommended on the grounds of safety and vehicle emissions. Older vehicles may pass roadworthiness safety checks but are more likely to be inherently less safe and emit more pollutants due to being of an older design. The council has adopted green policies which should encourage newer, less polluting vehicles. This is especially important due to the vehicles in question being used for the transport of children around schools. An increase to 15 years is not therefore recommended.
- (d) With regard to proposal 2 , the committee should note that a booking office licence is for private hire and /or taxis. There is no separate licence for private hires. The ratio mentioned in the letter appears to suggest that 1(or alternatively , 2) in every 25 cars operating from that booking office should be a WAV and that it should be the responsibility of the booking office to supply that WAV. This is perhaps less likely to pass the test of reasonableness as It obliges the booking office to purchase a vehicle when they may not otherwise have planned to do so, however this type of condition is untested.

It should also be noted that booking offices already have licences in place with existing conditions. Therefore the Council would be varying the terms of a licence under paragraph 10 of Schedule 1 to the Act. If the recommendation in this report is agreed, the Licensing Authority, before proceeding to vary the terms of a licence must:-

- (a) give 7 days' notice of a variation to the various licence holders and the Chief Constable; and
- (b) give each of these persons an opportunity to be heard by the authority on the day of this meeting.

It is therefore important that the procedures for this meeting are adjusted in such a way that the Chief Constable and licence holders are both given the opportunity to comment on the terms of this report if they are in attendance. It is confirmed that the Council has invited each of the persons requiring to be notified.

If there is a decision to change the licence conditions then the Council will, within 7 days, write to the holders of licences and the Chief Constable to notify them of the amendment.

Thereafter, the variation would come into force once the time period for an appeal has elapsed or if such an appeal has been lodged, when the appeal has been abandoned or determined in favour of the variation. The time period for an appeal is 28 days.

EQUALITIES IMPACT

10. Changing the existing licensing conditions would have a positive impact on wheelchair users and carers and others who may require additional support to access and egress taxis and private hire vehicles.

CONSULTATION

11. As this change only affects holders of licences for booking offices and as those licence holders have been notified of the potential change and given the opportunity to attend and comment of the changes, no further consultation was deemed necessary. Previous consultations regarding wheelchair accessible vehicles in general have taken place with the taxi trade and East Renfrewshire Disability Action (ERDA)

(i) delete existing condition 12 and replace with the following:-

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(ii) Add a new condition 24 as follows:-

24. "If the holder of this licence or any connected person (being any partner in a partnership or director or secretary of a company) to the holder of this licence obtains an operator's licence in terms of Section 10 of the Act and the number of such licences held by that person is 3 or more then, in that case, every third vehicle licenced must be a wheelchair accessible vehicle. This condition shall apply whether or not the vehicle being operated is a taxi or a private hire vehicle", and/ or

(iii) Such other new condition(s) as the committee may agree to having considered the proposals by a member of the public at Appendix 1

(iv) To remove the taxi operator licence limit.

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KEY WORDS

Civic Government (Scotland) Act 1982, Taxi booking office, wheelchair accessible vehicle, WAV, disabilities, equality, private hire, operator.

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Proposal 1

Over the last few years East Renfrewshire Council has been rewarding incentives to Taxi Drivers in an attempt to encourage them to buy a wheelchair accessible vehicle. What I would like the licencing committee to consider is to put a package of incentives together to encourage the Private Hire Drivers. Quite simply due to the fact there are more of them (525).

This is the package I would like you to consider:-

- License Upgrade - If a private hire driver is prepared to purchase a wheelchair accessible vehicle I would like the licencing committee to upgrade their licenses to a Taxi License. However, these licenses will have special conditions attached to them. The Taxi Operator's license is not transferable to a Saloon car (this license can only be used on a Wheelchair accessible vehicle) and the drivers Taxi license cannot be used to drive a Saloon Car. With this license the driver can drive a private hire car or a wheelchair accessible Taxi and there is no requirement for the driver to sit a knowledge test. If the driver would like to upgrade to a full Taxi license which would give him entitlement to drive a Saloon car he will be required to sit a knowledge test.
- At the moment there are 18 unissued Taxi licenses available. I would like you to consider issuing these licenses as "Special Taxi Licence". Once these have been issued there will be no further increase to the number of taxi licenses in East Renfrewshire. Any further wheelchair accessible vehicles that drivers put on the road will be licensed as private hire.
- Fees - One of the incentives that you have offered out is to provide the driver with these licenses free of charge for 1 year. I would like you to consider extending this to 3 years.
- Age of vehicle - I have heard that you are prepared to extend the life of a wheelchair access vehicle to 12 years, I would like you to consider extending this to 15 years.

This is the package of incentives I would like you to put forward to the private hire drivers. However, I feel personally that this will not be a success. You may get 1 or 2 drivers interested but not the majority.

Proposal 2

For the last few weeks I have been asking as many people as possible, who are directly involved with the taxi trade, this questions. Do you feel that it is the responsibility of an individual taxi driver to provide a wheelchair accessible vehicle for the public of East Renfrewshire? They all said, **no** and I don't think so either. So who is responsible? I believe that this responsibility lies within the **taxi company**. So how do we get around it? I would like the licensing committee to consider making a

new condition (New Legislation). This condition is attached to the **booking office license** introduced in 2009. What this induction will say is: -

“It is the responsibility of the Taxi/Private Hire companies to provide wheelchair accessible vehicles to the public of East Renfrewshire.”

I also mentioned Private Hire because as this condition is applied to the booking office license it can also be applied to the booking office license of a Private Hire Company. This has nothing to do with the conditions of the drivers private hire licenses. What this will do is make the private hire companies responsible for the transportation of wheelchair users not just Taxis. If you work this on a ratio of 1:25 on my calculations East Renfrewshire should have a minimum of 20 wheelchair accessible vehicles (at least 1 available from all 7 booking offices in East Renfrewshire).

If the wheelchair demand is not being met by the Taxi/Private Hire companies all the licensing committee has to do is increase the ratio to 2:25. Failure to comply with this new legislation the company would not be granted a booking office license and this gives the licensing committee far more control over the taxi/private hire trade within East Renfrewshire.

I believe that this is the simplest, the quickest and the fairest way to resolve this issue.

The taxi companies should be able to get round this very easily as many companies already buy and hire out cars to drivers. So instead of buying a Skoda they buy a wheelchair accessible vehicle and hire this out to their driver. But let's say the driver is a private hire driver and wants to drive this vehicle but it is licensed as a taxi. If you implement Proposal 1 you can upgrade the driver's license to a "Special Taxi License" allowing him/her to drive this vehicle. The companies could also consider giving out their own incentives such a reduced way in, school contract etc. There are many ways for the companies to get around this. I personally do not see this as a problem.

Any further questions regarding these proposals please do not hesitate to contact me.