

CITY OF WOLVERHAMPTON COUNCIL	Non-Statutory Licensing Committee 20 March 2019
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Report title	Proposed amendments to Hackney Carriage and Private Hire Vehicle Conditions	
Wards affected	All	
Accountable director	Ross Cook, Service Director of City Environment	
Originating service	Licensing Services	
Accountable employee(s)	Chris Howell	Licensing Manager
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Report to be/has been considered by	None	

Recommendations for decision:

The Non-Statutory Licensing Committee is recommended to:

1. Approve the revised conditions for hackney carriage and private hire vehicle conditions.

Recommendations for noting:

The Non-Statutory Licensing Committee is asked to note:

1. That the proposed amendments have been subject to consultation with the Trade at their group meetings.

1.0 Purpose

- 1.1 To seek approval for the amendment to the current vehicle conditions and adopt them as the standard conditions.

2.0 Background

- 2.1 The current conditions for Hackney Carriage and Private Hire vehicles require the proprietor of the vehicle to be the proposer of the insurance policy.
- 2.2 Representations were received from drivers and operators that this condition caused them difficulties as many of them hire vehicles and are therefore not the vehicle proprietor.
- 2.3 The Councils legal services were consulted on whether a change could be made to the conditions so that the proprietor of the vehicle did not have to be the proposer of the insurance. The legal advice provided confirmed that there was no provision which would prevent a person who does not own the vehicle insuring it and ultimately, it is the responsibility of the person insuring the vehicle to ensure the appropriate cover is sufficient.

3.0 Proposal

- 3.1 It was agreed at the trade group meetings that the importance was around the vehicle being properly insured, rather than who insured the vehicle and that the conditions should be amended.
- 3.2 As this change would only impact those who wished to implement the change, wider consultation was not deemed necessary.
- 3.3 The proposed amended conditions for Hackney Carriage vehicles is attached at Appendix 1. The amendment is at paragraph 9.

Hackney Carriage Vehicle Conditions - Existing	
9.	The proprietor of the vehicle shall at all times ensure there is in force in relation to the use of the vehicle as a hackney carriage a Policy of Insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988, and that the proprietor of the vehicle is the proposer of the policy of insurance.
Hackney Carriage Vehicle Conditions - Proposed	
9.	The vehicle shall be insured at all times. The policy in force must permit the use of the vehicle as a hackney carriage for public hire use.

- 3.4 The proposed amended conditions for Private Hire vehicles is attached at Appendix 2. The amendment is at paragraph 8.

Private Hire Vehicle Conditions - Existing	
8.1	The proprietor of the vehicle shall at all times ensure there is in force in relation to the use of the vehicle as a private hire vehicle a valid Policy of Insurance or such security as complies with the requirements of the Part VI of the Road Traffic Act 1988.
8.2	The proprietor of the vehicle must be the proposer of the insurance policy.
8.3	A copy of the current valid current certificate of insurance or cover note effective for the entire period of the licence relating to the vehicle must be submitted by the holder of the licence to their operator and, on request, to an Authorised Officer of the Council.
Private Hire Vehicle Conditions - Proposed	
8.1	The vehicle shall be insured at all times. The policy in force must permit the use of the vehicle as a private hire vehicle for hire or reward use.
8.2	A copy of the current valid certificate of insurance or cover note effective for the entire period of the licence relating to the vehicle must be submitted by the holder of the licence to their operator and, on request, to an Authorised Officer of the Council.
8.3	A copy of the current valid certificate of insurance or cover note effective for the entire period of the licence relating to the vehicle must be submitted by the holder of the licence to their operator and, on request, to an Authorised Officer of the Council.

- 3.5 It is also proposed to add an informative condition at 10.5

A Wolverhampton licensed private hire vehicle may only be driven by a Wolverhampton licensed private hire driver at any time.

- 3.6 Subject to approval of The Licensing Committee, it is proposed the amended conditions are effective immediately. The new conditions will only be in place once a vehicle licence is issued. They cannot be retrospectively applied.

4.0 Financial implications

- 4.1 There are no direct financial implications arising from this report [MK/08032019/L]

5.0 Legal implications

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 allows the local authority to condition licences for hackney carriage and private hire vehicles.

- 5.2 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may attach to the grant of a licence of a hackney carriage under the Town and Policies Causes Act of 1847 such conditions as the district council may consider reasonably necessary.
- 5.3 Section 48 provides a district council may attach to the grant of a private hire vehicle licence such conditions as they may consider reasonably necessary.
- 5.4 Any conditions approved by Licensing Committee will attach to a licence on grant (to include grant on renewal).
- 5.5 Section 48 of the 1976 Act further provides that a district council may on the receipt of an application from the proprietor of any vehicle grant a licence for the vehicle provided they are satisfied that for the vehicle there is in force a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988.
- 5.6 Section 80 of the Act deals with interpretation and provides that “*proprietor*” 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. If there is a formal hiring agreement in place this may be the driver.
- 5.7 Part VI of the Road Traffic Act 1988 provides at section 143 that:
- (a) a person must not use a motor vehicle on a road [or other public place] unless there is in force in relation to the use of the vehicle by that person such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of this Act, and
- (b) a person must not cause or permit any other person to use a motor vehicle on a road [or other public place] unless there is in force in relation to the use of the vehicle by that other person such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of this Act.
- Under the 1988 Act the word “**person**” could refer to anyone, not just the owner as was confirmed in *Williamson v O’Keeffe* [1947] 1 All ER 307, (1947) 45 LGR 128.
- 5.8 The type of insurance obtained and whether this is sufficient to deal with any liability is an issue for the person obtaining the insurance and any questions over extent of cover will need to be directed to the insurer. Button on taxis seems to support this by quoting from the case of *Telford v Wrekin Borough Council v Ahmed* which stated “*whether a policy covers a particular risk and therefore whether there is in force a valid insurance covering that risk will usually be a matter of construction of the insurance policy...*”

Section 143 of the 1988 Act states a person commits an offence if they drive a vehicle which is uninsured or permit this. “Person” is not limited to owner.

Section 50 of the 1976 Act details provisions as to proprietors and states the proprietor of any private hire vehicle (or hackney) licenced by the Council shall at the request of any

authorised officer of the Council produce for inspection the vehicle licence for the vehicle and the certificate of the policy of insurance or security required by Part VI of the Road traffic Act 1988 in respect of the vehicle and an offence is committed if a person fails to do this without reasonable excuse. [SH/06032019/D]

6.0 Equalities implications

6.1 There are no direct equalities implications arising from this report.

7.0 Environmental implications

7.1 There are no direct environmental implications arising from this report.

8.0 Schedule of background papers

8.1 Licensing Committee 29 November 2017