

## BOROUGH OF KETTERING

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<b>Report Originator</b>	Russ Howell	<i>Fwd Plan Ref No:</i>	
<b>Wards Affected</b>	All	29 <sup>th</sup> July 2015	
<b>Title</b>	<b>REVIEW OF SEAT DIMENSIONS POLICY FOR HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES</b>		

### 1. PURPOSE OF REPORT

To consider proposals for a new seat dimension policy for hackney carriages and private hire vehicles.

### 2. INFORMATION

2.1 Kettering Borough Council is the licensing authority for Private Hire Vehicles and Hackney Carriages under The Town Police (Clauses) Act 1847 and The Local Government (Miscellaneous Provisions) Act 1976 within its area.

2.2 Section 47 of the Local Government (Miscellaneous provisions) Act 1976 relating to the licensing of Hackney Carriages states:

(1) 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.

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

(3) Any person aggrieved by any conditions attached to such a licence may appeal to a Magistrates' Court.

2.3 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 relating to the licensing of Private Hire Vehicles states:

(1) Subject to the provisions of this Part of this Act, a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a Private Hire Vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied—

(a) that the vehicle is—

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- (i) suitable in type, size and design for use as a Private Hire Vehicle;
  - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage;
  - (iii) in a suitable mechanical condition;
  - (iv) safe; and
  - (v) comfortable;
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988,

and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.

(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates.

(7) Any person aggrieved by the refusal of a district council to grant a vehicle licence under this section, or by any conditions specified in such a licence, may appeal to a Magistrates' Court.

- 2.4 Previously the Authority has used a seat dimension standard of 406.9 mm (16 inches) per person which reflected the dimension of 405mm applied to minibuses in the The Minibus (Conditions of Fitness, Equipment and Use) Regulations 1977.
- 2.5 Two hearings at the end of 2014, one before Magistrates and one before the Authority's Licensing Panel challenged the current validity of that policy.
- 2.6 This Committee is therefore asked to consider a new policy to reinstate controls on seating space for passengers in licensed vehicles. This proposal is based on the current legal standard for minibuses laid down in The Road Vehicles (Construction & Use) Regulations 1986.
- 2.7 These regulations require a minimum seat width per passenger of no less than 400mm.
- 2.8 The draft policy is attached at **Appendix A**.
- 2.9 A policy on seat dimensions is necessary as part of the Licensing Authority's responsibility to ensure the safety, convenience and comfort of passengers in

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these vehicles. It also provides clear guidance to all parties as to how a vehicle will be licensed in terms of passenger numbers.

### **3. CONSULTATION AND CUSTOMER IMPACT**

- 3.1 The Licensing Authority consulted on the proposed policy between 26<sup>th</sup> January and 27<sup>th</sup> February 2015.
- 3.2 A copy of the policy was sent to all licensed Hackney Carriage proprietors and all Private Hire Vehicle operators. (An example letter is attached at **Appendix B**)
- 3.3 The policy was also published on the Council's website during this period. (See **Appendix C**)
- 3.4 The proposed seat dimension is an existing one within Hackney Carriage and Private Hire Vehicle Licensing across the country and this Authority is proposing nothing out of the ordinary in this proposal. The dimension is referred to within the reference book Button on Taxis Licensing Law and Practice 3<sup>rd</sup> edition
- 3.5 A number of responses were received which are attached at **Appendix D**. Many refer to impact on existing licensed vehicles. Given that the proposed standard is slightly smaller than the one currently applied, for the majority of vehicles currently licensed there would be no effect. Feedback has been taken account of in the proposed policy for approval by this committee.
- 3.6 The seats in some vehicles currently licensed, even with the reduced seat size, will not meet the required specification including those which were the subject of the hearings previously referred to.
- 3.7 The implementation of this policy would not prevent vehicles from being licensed. This report seeks the Committee's approval that where seat size does not meet the proposed policy then seating capacity would be reduced accordingly by condition rather than refusal of a licence application.
- 3.8 There are also two submissions from Denning's Solicitors in relation to this matter on behalf of their clients, KLM Taxis / Kettering Vehicle Rentals Limited.
- 3.9 The first submission (**Appendix E(i)**) purely challenged the legality of the process. It did not contain any direct representations as to why the proposal was not in the public interest or how it would affect their clients. They were therefore given a further opportunity to make such a submission (**Appendix E(ii)**). The second submission was a further challenge of the process (**Appendix E(iii)**).
- 3.10 The Council's legal officer has considered these submissions and considers that the Authority's approach is satisfactory.

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## 4. POLICY IMPLICATIONS

- 4.1 The transportation policy seeks to ensure safety standards through the licensing of Hackney Carriages and Private Hire Vehicles with a service objective to apply and enforce conditions to taxi licences to ensure a safe and reliable taxi service.

## 5. USE OF RESOURCES

- 5.1 None

## 6. RECOMMENDATION

The Licensing Committee is asked to approve the following:

- 1) While this policy does not prevent the Authority from using its discretion in this matter, the Authority does not envisage departing from this policy unless evidence of exceptional circumstances is provided. In preparing this policy the council has had regard to the seat width requirements for minibuses in Schedule 6 of The Road Vehicles (Construction and Use) Regulations 1986, being the current legislation on this subject.
- 2) No seat or part of a seat, other than a wheelchair, in a Hackney Carriage or Private Hire Vehicle shall be less than 400mm wide per passenger. This is to be measured across the approximate centre line between the front and rear of the seat base. The measurement will relate to available seat space and will not take account of any part of the seat which is covered or overhung by a part of the interior of the car. This includes any part of a door which when closed affects the availability of seating space.
- 3) Where the number of passengers permitted by available seat width is less than the number applied for, the licence will be issued with a seating condition. This will state the number of passengers permitted to be carried and any limitations on where in the vehicle those passengers may sit to meet the requirements of this restriction.
- 4) The committee should also consider what if any transitional arrangements should be put in place for the implementation of this policy for existing vehicles.

Background Papers:

None

Previous Reports/Minutes:

None