
Report of the Assistant Chief Executive (Corporate Governance)

To the Licensing and Regulatory Panel

Date: 3rd March 2009

Subject:

1. **INFORMATION REPORT - CHANGES TO VEHICLE INSPECTION ENFORCEMENT POLICY & PROCEDURES – HACKNEY CARRIAGE & PRIVATE HIRE VEHICLES & PRIVATE HIRE OPERATORS**

2. **INTERIM REPORT – PROPOSALS TO CHANGE THE ‘AGE CRITERIA’ CONDITION UPON HACKNEY CARRIAGE & PRIVATE HIRE SALOON & PEOPLE CARRIER VEHICLE LICENCES**

Electoral Wards Affected:

All

Specific Implications For:

Ethnic minorities

Women

Disabled people

Executive Summary

Based upon the results of an inspection schedule of licensed Hackney Carriage and Private Hire vehicles by age group during 2006, 2007 and 2008 an ‘information report’ has been prepared for Members detailing the operational and administrative changes which will be put into place to deal with issues of non compliance by vehicle Proprietors and drivers and a change to the existing ‘inspection and advice’ policy.

The link of accountability between Proprietors, drivers, Operators and Hackney Carriage Associations in respect of pre-booked journeys where a defective vehicle is used is clearly set out in the legislation highlighted. This accountability will be pursued, where appropriate, as part of the operational enforcement procedures.

Part two; the interim report advises Members of initial proposals arising from the inspection findings to reduce the existing maximum ‘age criteria’ on licensed Hackney Carriage and Private Hire vehicles from eight years to six years from the date of original registration of the vehicle. This proposal is still subject to consultation and will be brought back to the May meeting of Licensing and Regulatory Panel for determination.

1.0 PURPOSE OF THIS REPORT

- 1.1 To keep Members informed of operational and administrative changes in respect of the transfer of vehicle Proprietors licence, the inspection of licensed Hackney Carriage and Private Hire vehicles: the chain or responsibility between Proprietors, drivers, Operators and Hackney Carriage Associations and the operational decision to make Operators and Hackney Carriage Associations accountable for their use of defective vehicles.
- 1.2 To enable Members to be aware of the research undertaken during the past three years (**Appendix A**) and to advise Members of proposals to lower the maximum 'age criteria' on licensed Hackney Carriage and Private Hire saloon and people carrier vehicles in terms of appropriateness and proportionality.

2.0 BACKGROUND INFORMATION

- 2.1 Leeds City Council took responsibility for all Hackney Carriage and Private Hire licensing matters in 1978 when it adopted Part II of the Local Government (Miscellaneous Provisions) Act, 1976. The then responsible Licensing Committee created a set of Conditions which it thought appropriate to place on Hackney Carriage and Private Hire vehicle licences at that time. The following years have seen significant changes and Conditions have evolved, gradually and extensively, particularly so in recent years.
- 2.2 Over the last four years there has been a significant increase in service provision by the Private Hire sector and at the same time the expectations of the public have increased. Following consultation with the Private Hire trade, new Conditions have been implemented or agreed, and step by step the Private Hire vehicle Conditions have been updated. The same applies in respect of the Hackney Carriage vehicle Conditions. The proposed changes further advance administrative and operational enforcement issues addressing public safety and service issues.
- 2.3 The operational changes very clearly direct attention to the responsibilities of Private Hire Operators and Company Secretaries of Hackney Carriage Associations when using vehicles on pre-booked journeys.
- 2.4 The operational and administrative changes, along with the proposed 'age criteria' Condition change, reflect on the results of the inspection policy to date. These results also bring into focus the need for the Council to consider its statutory responsibility in respect of the safety of licensed vehicles, along with their mechanical condition and comfort.
- 2.5 The existing 'age criteria' Condition imposed upon licensed vehicles is set out at Part 2 – Age Criteria of the Private Hire licensing Conditions and is reproduced below: -

AGE CRITERIA

- (a) *The age of a vehicle, for licensing purposes, shall be determined by the date of first registration on the V5 document (Log Book.) A vehicle will only be accepted for licensing if the date of first registration is less than 5 years from*

the date of application. The vehicles must be licensed for use within one month from the date of application.

- (b) *Where a currently licensed vehicle does not meet the requirements of part 2a) that vehicle will continue to be re-licensed for up to 8 years from the date of first registration, providing that all other licensing requirements relating to that vehicle have been complied with and that the licence is renewed before the Taxi and Private Hire Licensing Section's last working day of the month of expiry of the licence. Any break in the licence will result in part (a) of this Condition coming into effect.*

- 2.6 An identical Condition exists in respect of Hackney Carriage saloon and wheelchair accessible vehicles (there is a difference in respect of wheelchair accessible Hackney Carriage vehicles but that relates to the point of licensing for the first time and is not affected by any changes outlined in Part 1 and Part 2 of this report.)

AGE CRITERIA – HACKNEY CARRIAGE WHEELCHAIR ACCESSIBLE VEHICLES

- 3.1 *In the case of a first application, vehicles must not be more than one year old, taken from the date of first registration, the vehicle having being registered within twelve months of the date of its manufacture.*
- 3.2 *In the case of an application for a renewal of a licence, vehicles must normally not be more than eight years old, taken from the date of first registration, unless found to be in exceptional condition with regard to the vehicles age, condition of the bodywork and interior.*
- 3.3 *Once licensed, if the vehicle sustains accident damage, vandalism or theft, a vehicle up to five years old, taken from the date of first registration, may be licensed as a replacement vehicle for the duration of that licence, subject to the age, condition of the bodywork and interior of the vehicle.*
- 3.4 *Vehicles may be replaced, at the discretion of the Proprietor, during the duration of the vehicle licence. Such vehicles must normally not be more than five years old at the date of application, taken from the date on which the vehicle was first registered.*
- 3.5 *All vehicle licences will normally expire at the end of the month of the anniversary date of the vehicle reaching its eighth year, unless found to be in exceptional condition.*

AGE CRITERIA – HACKNEY CARRIAGE SALOON VEHICLES

- 2.1 *Subject to those vehicles which are considered to be in exceptional condition by an Authorised Officer with regard to vehicle age, condition of the bodywork and interior:*
- 2.1.1 *Any vehicle which is more than eight years old (taken from the date on which it was first registered) will not normally be licensed, unless found to be in such an exceptional condition.*
- 2.1.2 *All vehicle licences will normally expire at the end of the month of the anniversary date of the vehicle reaching its eighth year (taken from the date on which it was first registered), unless found to be in such an exceptional condition.*

2.2 *Vehicles may be replaced, at the discretion of the Proprietor, during the duration of the vehicle licence. Such vehicles must normally not be more than five years old at the date of application, taken from the date on which the vehicle was first registered.*

2.7 Section 48 (2) of the Local Government (Miscellaneous Provisions) Act, 1976, sets out the powers available to the council to impose such a Condition and the opportunity by an aggrieved Proprietor to appeal to the Magistrates Court against the imposition of such a Condition upon the vehicle licence (an extract of all relevant Sections of this Act referred to in this report is set out at **Appendix B.**)

2.8 Section 48 (1) (a) of the Local Government (Miscellaneous Provisions) Act, 1976, sets out that a District Council 'shall grant a vehicle licence to a Private Hire vehicle on application 'provided that a District Council shall not grant such a licence unless they are satisfied that': -

(a) *that the vehicle is:*

(iii) *in suitable mechanical condition*

(iv) *safe, and*

(v) *comfortable'*

2.9 These key areas of legislation are highlighted in particular to Members to demonstrate the statutory requirements and to indicate that they remain an enforcement issue for the Council throughout the lifetime of the vehicle licence. It is this part of the Act that underpins the Council's enforcement policy and Conditions.

3.0 MAIN ISSUES

PART 1 – Changes to vehicle inspection and enforcement policy and procedures – Hackney Carriage and Private Hire vehicle licences: -

3.1 **Vehicle Transfer Policy** – all licensed Private Hire or Hackney Carriage vehicles will be required to undertake a formal inspection at the time of transfer from one Proprietor to another along with a Hire Purchase Information (HPI) check.

3.2 Section 49 (1) of the Local Government (Miscellaneous Provisions) Act, 1976, allows 14 days from the notification of such a transfer to take place. The Licensing Section encourages Proprietors to do this immediately. There have been examples of Proprietors purchasing licensed vehicles which have failed subsequent inspections and left new Proprietors in financial difficulties with a vehicle that required substantial further investment.

3.3 To encourage greater responsibility on the part of sellers and purchasers of licensed vehicles, there will be a policy change which will involve the immediate suspension of an existing vehicle licence unless it has, within the 28 days proceeding notification of transfer, undertaken and passed an MOT inspection or formal inspection at these premises. The original MOT certificate must be presented to the Council at the point of transfer.

3.4 Any licensed vehicle which does not have the requisite MOT certificate or a Leeds City Council formal inspection pass, as described at 3.3, will remain suspended until it has successfully passed a formal inspection by an Authorised Officer of the

Council. A vehicle which satisfies this requirement could be able to be taken into immediate use pending a formal inspection.

- 3.5 **Prosecution Policy** – the Licensing Section issues formal rectification and suspension notices to vehicle Proprietors within its inspection facility for a wide range of mechanical faults or non-compliance to its licence Conditions. All of the Vehicle Examiners are qualified to MOT inspection standards and are also qualified vehicle technicians with extensive experience.
- 3.6 The high failure rate at inspections indicates a significant lack of on-going maintenance by some vehicle Proprietors and drivers. Whilst there may be a number of reasons for this, it does not dilute the responsibility of a Proprietor, driver, Operator or Hackney Carriage Association of a licensed vehicle that they are responsible, in law, to comply with all aspects of a vehicles road worthiness in accordance with Construction & Use regulations and associated legislation whilst on a public road. The position is the same in respect of Conditions upon the vehicles licence.
- 3.7 Failure to maintain a vehicle to a road worthy standard and to the Conditions by a Proprietor places not only the public at risk but also the driver. It should not be overlooked that a licensed Operator or Hackney Carriage Association has a significant liability by dispatching a defective vehicle to a client. Neglect on the part of a vehicle Proprietor has a potential impact on a range of people.
- 3.8 The preference will remain that, where appropriate, Proprietors, drivers, Operators and Hackney Carriage Associations will be made aware of defects and given the opportunity to contribute to remedying the defect and preventing future occurrences. However, where there is clear evidence of an obvious, dangerous defect (e.g. tyre tread levels, handbrake not holding) which are probably indicative of a neglect to follow the manufacturer's service schedule, then prosecution may follow. For information some case law examples are set out at **Appendix C**.
- 3.9 **Vehicle Inspections / Attendance Administration** - The figures at **Appendix A** reveal that some Proprietors fail to produce their licensed vehicle for inspection when required. It is sometimes the case that the Proprietor does not attach the necessary importance to that requirement. There are other reasons, but the most concerning is that the Proprietor has no intention of producing the vehicle for inspection and is difficult to locate.
- 3.10 There will be a procedural change in how the Section deals with failures to attend for vehicle inspections. The financial impact of this will fall upon the vehicle Proprietor concerned and the ascending scale of charges will be representative of the level of administration required. The policy and procedural change is set out at **Appendix D**, with the exception of fees which, when finalised, will be published in accordance with the Local Government (Miscellaneous Provisions) Act, 1976.
- 3.11 Following the Licensing and Regulatory Panel meeting hearing this report it is intended to place these operational and administrative changes on media screens in the Licensing Office, in the 'Spring Newsletter', on the Council's website and by sending 'flyers' to Operator and Hackney Carriage Association bases. It is not intended to commence this policy for at least three months to enable any

representations to be considered and to enable Proprietors, drivers, Operators and Hackney Carriage Associations to make appropriate adjustments.

PART 2 – Proposals to change the ‘age criteria’ Condition placed upon Hackney Carriage and Private Hire saloon and people carrier vehicle licences:-

- 3.12 The information contained in Appendix A is also relevant to this proposal to change the ‘age criteria’ Condition as set out in Part 2 (b) of the Private Hire vehicle (saloon and people carrier) Conditions and also the Hackney Carriage vehicle Conditions.
- 3.13 The points made in respect of Part 1 of this report in terms of legislation are also relevant to this part of the report. The proposals are not in conflict with Department for Transport best Practice Guidance at **Appendix E**.
- 3.14 It is considered that the impact of the following proposal will only adversely affect those licensed Proprietors or drivers who do not undertake a proper maintenance and servicing schedule as set out in the manufacturer’s handbook and who do not follow the advice of motoring organisations in respect of vehicle care, for example at **Appendix F**.
- 3.15 Neither the vehicle inspection facility of the Licensing Office nor an MOT testing station are intended to be ‘fault finders’ for vehicle owners who seek only to identify the essential faults to enable them to pass a vehicle inspection or MOT inspection with minimum investment. This practice clearly assists the Proprietor to avoid responsibility for maintaining a vehicle in safe and road worthy condition throughout the whole year. All licensed vehicles should be the subject of a service and maintenance plan in accordance with the manufacturer’s advice which is adhered to by the driver / Proprietor. There is no acceptable or legal reasoning that a Proprietors financial position may not support this view.
- 3.16 It should be emphasised that if a vehicle is properly maintained and serviced in accordance with the manufacturers instructions it will have the capability to be successful within the inspection and licensing regime, and to be licensed beyond the six years. This seems to be the case where there has been a requirement for greater financial investment in a vehicle (e.g. wheelchair accessible vehicles), but that might also be aided by the more utilitarian design of those vehicles.
- 3.17 In creating such a Condition on a licence the Council is, in effect, setting out its policy and concerns to deal with its statutory responsibility. Because it is policy, discretion can be applied in considering individual cases. That has been the case for some years in respect of the existing ‘age criteria’ which has benefited wheelchair accessible vehicles in particular.
- 3.18 The current procedure for making such an exception is called ‘the exceptional condition policy’ and is set out at **Appendix G**. This would be raised to a maximum age of 8 years from the date of first registration in respect of saloon and people carrier vehicles.
- 3.19 The purpose of the ‘exceptional condition’ policy is to enable those vehicles which are in exceptional condition for their age, mileage and usage, to continue to be

licensed because they are able to demonstrate a proper level of investment, maintenance and care by the Proprietor.

- 3.20 The 'exceptional condition' policy has been and will remain available to all licensed vehicles should the proposed Condition be introduced and the Proprietor follows the correct procedure.
- 3.21 To minimise the financial impact on existing Proprietors of vehicles it is proposed that those vehicles currently licensed with this Council will be subject to the existing 'age criteria'. This proposed change would not take effect unless the vehicle licence has expired or is sought to be transferred. Again it is proposed that the implementation of the policy would be deferred for three months to enable all of the information to be properly circulated to licensed vehicle Proprietors, as set out at 3.12.
- 3.22 To balance this exception to the proposed Condition in terms of safety it is proposed to introduce an inspection policy which requires every vehicle attaining six years from date of first registration to be formally inspected at the point of re-licensing and up to twice a year during the currency of its licence.
- 3.23 There will be continued monitoring of inspection results for vehicles of all ages and further proposals to encourage improvements in the duty of care may be presented to Members affecting Conditions and testing requirements. It is anticipated the schedule of inspections covering all age groups will be completed during summer 2009.

4.0 IMPLICATIONS FOR COUNCIL POLICY AND CORPORATE GOVERNANCE

- 4.1 None

5.0 LEGAL, CONSULTATION AND RESOURCE IMPLICATIONS

- 5.1 Extracts of the relevant Acts and Sections, along with the existing Conditions, have been set out for easy reference in each appropriate part of the report. Following legal advice Members would need to decide that the proposed changes to policy are both fair and proportionate. Members are reminded that they will not be asked to make a decision on the age criteria condition until May 2009.
- 5.2 Consultation – open invitations have been sent to all licensed Operators on a number of occasions to discuss the vehicle inspection results and consider proposals to deal with the high rate of 'failures'. There was a poor attendance in terms of numbers but significant contributions in terms of ideas and views on how to deal with the policy. It has to be said there was shock and concern from all of those who saw the figures, and also a distinct concern in accepting liability for using defective vehicles in the course of their business.
- 5.3 It is proposed to engage with existing vehicle Proprietors, drivers, Operators and Hackney Carriage Associations so that they are aware of the concerns of the Council and how these changes would affect them and also give them a further opportunity for feedback before making a final decision. This would be achieved by use of media screens in the Licensing Office, in the 'Spring Newsletter', on the

Council's website and by sending 'flyers' to Operator and Hackney Carriage Association bases.

6.0 CONCLUSIONS

- 6.1 Officers consider that the proposed policy and Condition changes will increase the level of safety and achieve a higher compliance to road safety issues and Council Conditions along with increasing the awareness for the necessity to regularly service and maintain vehicles within the public transport environment.

7.0 RECOMMENDATIONS

- 7.1 Vehicle transfers – that Members note the policy changes set out at 3.1 - 3.4 and make any comments they think appropriate.
- 7.2 Prosecution policy – that Members note the policy change set out at 3.5 - 3.8 and 3.13 and make any comments they think appropriate.
- 7.3 Vehicle inspection non attendance policy and procedure - that Members note the policy change set out at 3.9 - 3.11 and **Appendix D** and make any comments they think appropriate.
- 7.4 Exceptional condition policy – that members note the policy set out at **Appendix G** and make any comments they think appropriate.
- 7.5 Members note the intention to introduce an increase in inspection levels on those licensed vehicles which are six years or older after the date of first registration, and make any comments they think appropriate.
- 7.6 That the Section Head Taxi and Private Hire Licensing be allowed to introduce the changes at 7.1 to 7.5 above no earlier than three months from the date of the meeting under delegated powers.
- 7.7 That Members, note the interim report on the proposed Condition changes set out at 3.16 – 3.29, as a Condition upon Hackney Carriage and Private Hire saloon and people carrier vehicle licences and that further consultation is planned before the matter is brought back to Panel in May 2009 for a final decision.

List of Appendices

Appendix A	Vehicle Inspection Results
Appendix B	Relevant Sections of the Local Government (Miscellaneous Provisions) Act, 1976 etc
Appendix C	Case Law – ‘use, cause, permit’
Appendix D	Flow Chart – Vehicle Inspection Attendance Administration
Appendix E	DfT Best Practice Guidance
Appendix F	Motoring Organisations Advice
Appendix G	Exceptional Condition Policy

Documents referred to: -

‘How to Consult Your Users’ (HM Government Archive Document – Service First)

VEHICLE INSPECTION RESULTS – 6 /7+ Years**Hackney Carriage Vehicles**

	Vehicles Required To Attend	Passed Test	Failed Test	Vehicle Suspended	Licence Revoked	Licence Surrendered	Failed to Attend
Actual Volume	115	27	45	23	0	7	13
%		23.5%	39.1%	20.0%	0%	6.1%	11.3%

Attended at a later date (vehicles that failed to attend on first request)

Actual Volume	11	1	6	3	0	1	0
%		9.1%	54.5%	27.3%	0%	9.1%	0%

Private Hire Vehicles

	Vehicles Required To Attend	Passed Test	Failed Test	Vehicle Suspended	Licence Revoked	Licence Surrendered	Failed to Attend
Actual Volume	740	138	230	78	32	45	217
%		18.7%	31.1%	10.5%	4.3%	6.1%	29.3%

Attended at a later date (vehicles that failed to attend on first request)

Actual Volume	192	14	66	22	8	82	0
%		7.3%	34.4%	11.5%	4.2%	42.6%	0%

Relevant Section of Local Government (Miscellaneous Provisions) Act, 1976

48 Licensing of private hire vehicles

- (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—

- (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;

- (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.

- (3) In every vehicle licence granted under this section there shall be specified—

(a) the name and address of —

- (i) the applicant; and
- (ii) every other person who is a proprietor of the private hire vehicle in respect of which the licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of the private hire vehicle;
- (b) the number of the licence which shall correspond with the number to be painted or marked on the plate or disc to be exhibited on the private hire vehicle in accordance with subsection (6) of this section;
- (c) the conditions attached to the grant of the licence; and
- (d) such other particulars as the district council consider reasonably necessary.

- (4) Every licence granted under this section shall —
- (a) be signed by an authorised officer of the council which granted it;
 - (b) relate to not more than one private hire vehicle; and
 - (c) remain in force for such period not being longer than one year as the district council may specify in the licence.
- (5) Where a district council grant under this section a vehicle licence in respect of a private hire vehicle they shall issue a plate or disc identifying that vehicle as a private hire vehicle in respect of which a vehicle licence has been granted.
- (6) (a) Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle a vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.
- (b) If any person without reasonable excuse contravenes the provisions of this subsection he shall be guilty of an offence.
- (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.

Amendment

Sub-s (1): words in square brackets in para (b) substituted by the Road Traffic (Consequential Provisions) Act 1988, s 4, Sch 3, para 16.

49 Transfer of hackney carriages and private hire vehicles

- (1) If the proprietor of hackney carriage or a private hire vehicle in respect of which a vehicle licence has been granted by a district council transfers his interest in the hackney carriage or private hire vehicle to a person other than the proprietor whose name is specified in the licence, he shall within fourteen days after such transfer give notice in writing thereof to the district council specifying the name and address of the person to whom the hackney carriage or private hire vehicle has been transferred.
- (2) If a proprietor without reasonable excuse fails to give notice to a district council as provided by subsection (1) of this section he shall be guilty of an offence.

60 Suspension and revocation of vehicle licences

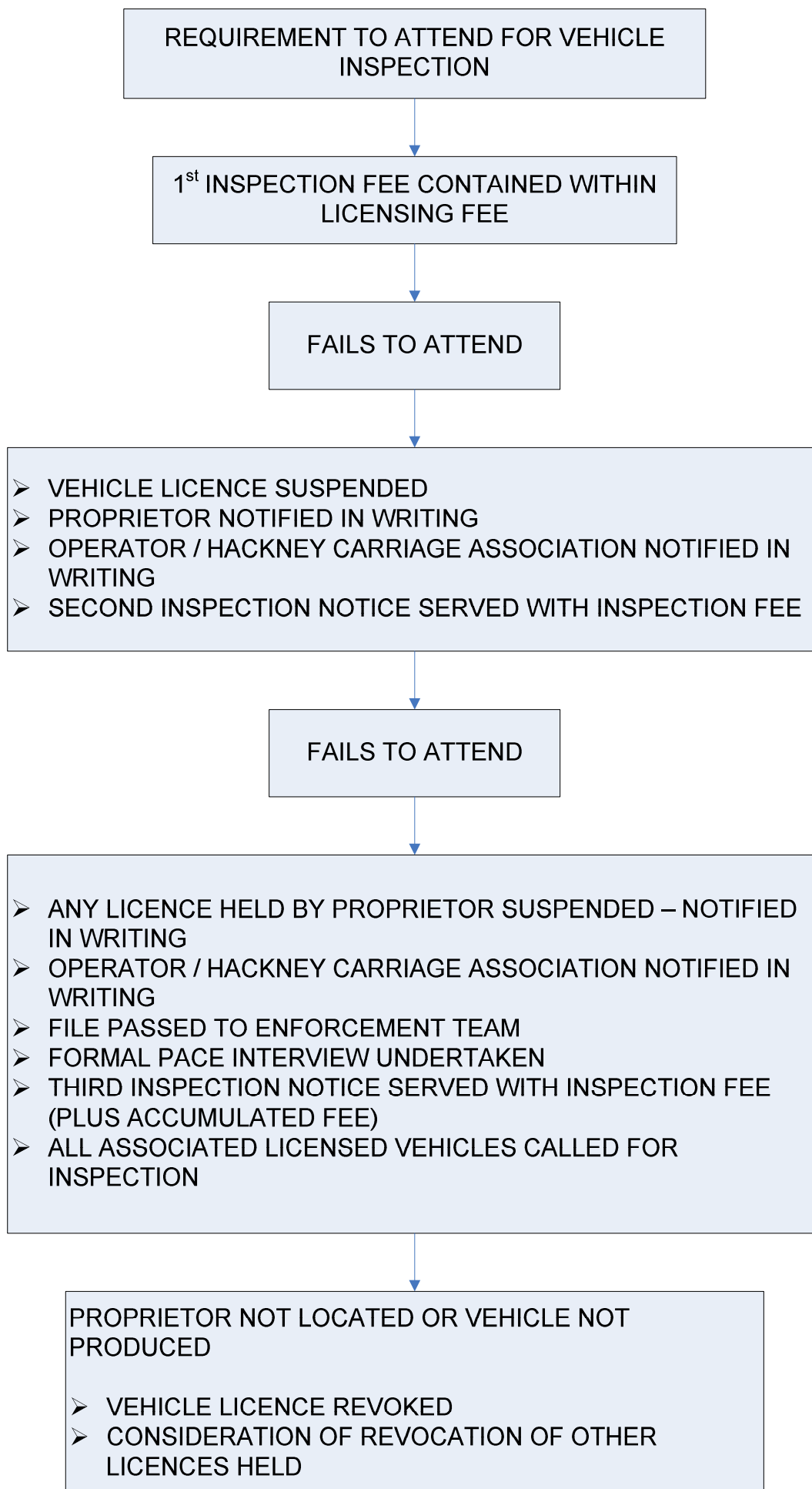
- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke, or (on application therefore under section 40 of the Act of 1847 or section 48 of this Act, as the case may be) refuse to renew a vehicle licence on any of the following grounds—
 - (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
 - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
 - (c) any other reasonable cause.
- 2) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the proprietor of the vehicle notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew the licence within fourteen days of such suspension, revocation or refusal.
- (3) Any proprietor aggrieved by a decision of a district council under this section may appeal to a magistrates' court.

68 Fitness of hackney carriages and private hire vehicles

Any authorised officer of the council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council, or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney carriage or private hire vehicle or as to the accuracy of its taximeter he may by notice in writing require the proprietor of the hackney carriage or private hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied: Provided that, if the authorised officer or constable is not so satisfied before the expiration of a period of two months, the said licence shall, by virtue of this section, be deemed to have been revoked and subsections (2) and (3) of section 60 of this Act shall apply with any necessary modifications.

Appendix C

CASE NAME	STATUTE	REFERENCE	SUBJECT	BRIEF PRECIS OF DECISION	FORCE OF AUTHORITY
Crawford v Houghton	Con & Use Regs,1986	[1972] 1 All ER 535	USE OF VEHICLE	If an owner allowed another to use an unroadworthy vehicle he could be charged with causing or permitting its use. He could not, unless the driver was a direct servant of his be prosecuted for use of the vehicle but could be for permitting the use.	Binding
Bygraves and Dicker	TPCA 1847, Ss 45-63	[1923] All ER 473	VICARIOUS LIABILITY OF OWNER	HCV Owner liable for acts of self-employed driver- Any party who is injured due to drivers negligence can obtain damages from vehicle owner.	Binding
Baker v Chapman	Road Traffic Act 1960,S127	[1963] LGR 527	CAUSE, PERMIT OR USE	An owner of vehicle uses it both when he drives it AND also when someone else does so on his instruction	Binding
Hallett Silberman Ltd v Cheshire C.C.	S42 RTA 1988[Con & Use Regs]	[1993] RTR32, Times Law Reports [9/6/92]	USER OF VEHICLE	Where company employs self employed driver then Company may be regarded as USER of the vehicle and prosecuted accordingly.	Binding
R v MOHAMMED YAQOOB (2005)	CRIMINAL EVIDENCE - ROAD TRAFFIC - SENTENCING	CA (Crim Div) (Thomas LJ, Calvert-Smith J, Recorder of Cardiff) 26/8/2005	MANSLAUGHTER BY GROSS NEGLIGENCE	Entirely open to the jury to find that there was a duty to inspect and maintain beyond that required for an MOT test, council inspections and other duties imposed by regulation.....It was incumbent on all operators of minicabs and minibuses to exercise due care to see that their vehicles were frequently inspected and well-maintained. Where, as in the instant case, a deterrent sentence was not required, a sentence of four years' imprisonment was more than within the general range of sentences for manslaughter by gross negligence due to a failure to properly maintain a minibus.	



Department for Transport

(Taken from DfT Website)

Taxi and Private Hire Vehicle Licensing: Best Practice Guidance

Vehicles

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).

Imported vehicles: type approval (see also "stretched limousines", paras 26-28 below)

21. It may be that from time to time a local authority will be asked to license as a taxi or PHV a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local authority's criteria for licensing, but the local authority may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- a European Whole Vehicle Type approval;
- a British National Type approval; or
- a British Single Vehicle Approval.

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. The technical standards applied (and the safety and environmental risks covered) under each of the above are proportionate to the number of vehicles entering service. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at www.dft.gov.uk/stellent/groups/dft_roads/documents/page/dft_roads_506867.hcsp.

Vehicle Testing

22. There is considerable variation between local licensing authorities on vehicle testing, including the related question of age limits. The following can be regarded as best practice:

- **Frequency of Tests.** The legal requirement is that all taxis should be subject to an MOT test or its equivalent once a year. For PHVs the requirement is for an annual test after the vehicle is three years old. An annual test for licensed vehicles of whatever age (that is, including vehicles that are less than three years old) seems appropriate in most cases, unless local conditions suggest that more frequent tests are necessary. However, more frequent tests may be appropriate for older vehicles (see 'age limits' below). Local licensing authorities may wish to note that a review carried out by the National Society for Cleaner Air in 2005 found that taxis were more likely than other vehicles to fail an emissions test. This finding, perhaps suggests that emissions testing should be carried out on ad hoc basis and more frequently than the full vehicle test.
- **Criteria for Tests.** Similarly, for mechanical matters it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs*. The MOT test on vehicles first used after 31 March 1987 includes checking of all seat belts. However, taxis and PHVs provide a service to the public, so it is also appropriate to set criteria for the internal condition of the vehicle, though these should not be unreasonably onerous.

*A manual outlining the method of testing and reasons for failure of all MOT tested items can be obtained from the Stationary Office see

www.tsoshop.co.uk/bookstore.asp?FO=1159966&Action=Book&From=SearchResults&ProductID=0115525726

- **Age Limits.** It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old.
- **Number of Testing Stations.** There is sometimes criticism that local authorities provide only one testing centre for their area (which may be geographically extensive). So it is good practice for local authorities to consider having more than one testing station. There could be an advantage in contracting out the testing work, and to different garages. In that way the licensing authority can benefit from competition in costs. (The Vehicle Operators and Standards Agency - VOSA - may be able to assist where there are local difficulties in provision of testing stations.)

Security

23. The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures, on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on - or actively to encourage - their installation. They could include a screen between driver and passengers, or CCTV. Care however should be taken that security measures within the vehicle do not impede a disabled passenger's ability to communicate with the driver. Licensing authorities may want to encourage the taxi and PHV trades to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships. There is extensive information on the use of CCTV, including as part of measures to reduce crime, on the Home Office web-site, www.homeoffice.gov.uk (and see for instance, www.crimereduction.gov.uk/cctv/cctvminisite4.htm).

RAC Know How

Motoring News

(Taken from RAC Website)

Drivers warned about cutting costs

Motorists strapped for cash due to the economic downturn have been warned that scrimping on servicing their car could lead to bigger repair and maintenance bills in the long run.

The significant rises in motoring costs due to rising fuel prices coupled with hikes in food and energy bills are affecting motorists' ability to keep vehicles maintained, the RAC has said.

In a survey one in eight RAC car breakdown patrols (12%) said motorists are now less able to get vehicles serviced and one in ten (10%) have been told that members can not afford basic repairs to their cars.

The problem is exacerbated by motorists failing to carry out basic maintenance themselves.

According to RAC roadside rescue patrols, two thirds of drivers claim they do not have time to keep their cars maintained and six out of ten (62%) said they were scared to look under their bonnet.

Iain Vale, RAC's patrol of the year, said: "When money is tight, it's always tempting to cut back on maintenance, but it's a false economy. As a dentist would say, prevention is always better than cure.

"Vehicle manufacturer service schedules are designed to keep cars running both efficiently and safely which is why we're urging motorists to keep their cars regularly serviced - for the sake of their purses as well as their safety."

EXEMPTION TO AGE POLICY TO A MAXIMUM OF 10 YEARS FROM THE DATE OF FIRST REGISTRATION

Background to the Policy

Leeds City Council operates an age criteria of eight years on Licensed Hackney Carriages and Private Hire vehicles.

The policy is based on the consideration that the licensed vehicles are providing a public transport service and as such standards of safety are essential and the vehicle should be in exceptional condition for its use and mileage.

The appearance of the vehicle, externally and internally, and the level of comfort and cleanliness it offers can adversely impact upon the image of the City of Leeds if the vehicle is shabby.

It is also important that licensed vehicles have an acceptable emissions level. With the high mileage and wear and tear involved with licensed vehicles that level will be set to an attainable standard compatible with its age.

To assess all these issues an Authorised Officer of the Council will conduct an extended inspection of the vehicle and assess it against a set criteria.

Areas for Inspection

- Emissions
- Mechanical condition and service history
- Equipment
- Appearance, cleanliness & comfort

The vehicle must pass all four areas of inspection to be licensed beyond the age criteria.

How to Apply for an Exemption to the Council's 'vehicle Age Criteria'

To extend the licensing age of a vehicle a Proprietor should: -

- Make a formal written application
- Pay an extended inspection fee
- Present the vehicle for an extended inspection by Authorised Officer at an appointed time

The application should include the vehicles service history and all the official documents, bills, receipts to support the view that the vehicle is in exceptional condition.

Please note that Officers need to be able to substantiate the technical abilities of a person carrying out repairs, the quality of replacement parts. They must also be able to determine

that any document etc presented can conclusively be attributed to work carried out on that licensed vehicle at a particular time in its working life.

An appointment will be made to carry out the vehicle inspection. The inspection will take approximately 3 hours.

The Officer conducting the test will examine the vehicle against a detailed check list of the areas identified above.

Testing Standard

The Officer will determine a score for each area of inspection, and as an example the testing standard for 'Mechanical Condition' is produced below: -

Fail	Probably beyond economical improvement to meet required standard. Indications of sustained neglect. Falls short and requires significant remedial attention. Has little service history.
Improvement Notice	Generally good but with areas for improvement. Has record of servicing with validity.
Pass	In excellent condition having substantial documentary evidence with continuity.

Officers will inspect the other two areas for inspection to this same standard.

If the licensed vehicle fails the test it is for the Proprietor to consider the cost effectiveness of bringing the vehicle to a condition that it can pass the inspection

Please note

If at the time of inspection the vehicle is considered to have serious deficiencies the Officer may issue a suspension notice.

The applicant will be supplied with a copy of the inspection notice.

The earliest an application will be received for an exemption to the criteria is not more than 12 weeks prior to the expiration of its current licence.

There will be a re-inspection fee set at an appropriate level and as amended from time to time.

The vehicle will not be granted an extension to the age criteria until it has successfully passed the inspection process. The whole of this application, inspection and approval process must be completed prior to the expiration of the current vehicle licence.

If successful an exception to the policy would be made for that vehicle for a period of twelve months.

If a subsequent application (i.e. at 9 years since date of manufacture) was to be made by the Proprietor the same procedures would apply.

In the event of a third application for extension it is considered appropriate that the vehicle should have an emissions standard equivalent to a vehicle in the 0 – 5 year age group.