

Minutes of	General Licensing Sub-Committee
Meeting date	Tuesday, 5 July 2022
Committee members present:	Councillors Jacky Alty (Chair), Jane Bell, Chris Lomax, Jacqui Mort and Alan Ogilvie
Officers present:	Chris Ward (Licensing Manager), Alex Jackson (Shared Legal Services Team Leader) and Coral Astbury (Democratic and Member Services Officer)

1 Apologies for absence

There were no apologies.

2 Declarations of Any Interest

There were no declarations of any interest.

3 Exclusion of the Press and Public

Resolved:

That the press and public be excluded for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1971.

By Virtue of Paragraph 1: Information relating to any individual.

4 Procedure

The Chair outlined the procedure to be followed at the hearing.

5 Request for a Hackney Carriage Vehicle Licence

On 5 July 2022 at 2:00pm, a sub-committee hearing was convened to determine whether the Council would depart from its current Taxi Licensing Policy to licence a Hackney Carriage Vehicle with windows that do not comply with current policy.

The members were Cllr J Alty (Chair), Cllr J Bell, Cllr C Lomax, Cllr J Mort and Cllr A Ogilvie. The Driver and his representative were also present.

The Licensing Manager outlined the report of the Director of Planning and Development and explained the application was referred to members for a decision as the vehicle was not compliant with the tinted window requirement of 50% transmission, as detailed within the Taxi Licensing Policy.

The Licensing Manager explained that the vehicle was compliant with all other aspects of the Taxi Licensing Policy, but Officers had found, when testing, that the light transparency in the rear windows of the vehicle was limited to 26%. The Council's current Taxi Licensing Policy states that the minimum light transparency within a licensed vehicle must be 50%. The purpose of this requirement was to ensure that any inappropriate activity in the rear of the vehicle could not be concealed, or on the grounds that passengers should be able to see if the vehicle is unoccupied before entering and so enforcement officers can see that vehicles are not carrying more passengers than licensed for.

The Driver had contacted Licensing Officers on 11 May 2022 and was advised that the windows would need to have a minimum of 50% light transparency. The Licensing Manager explained that he had received queries from the applicant's representative in advance of the meeting in relation to replacement windows, and had explained that should the rear windows be replaced with glass with an E43R status it would not affect the M1 status of the vehicle.

The Licensing Manager advised members they would need to determine whether they wished to depart from their current taxi licensing policy and to licence a hackney carriage vehicle with windows that do not comply with the permitted level of tint.

On behalf of the Driver, the representative asked the Licensing Manager what the legislation was in relation to tinted glass. In response, the Licensing Manager explained that the Driver Vehicle Standards Agency (DVSA) requires front windscreens to have 75% light transparency and 70% for the front two side windows. The DVSA has no requirements for the level of light transparency in rear windows, however the Council had set their own conditions for level of tint as permitted by S.47 of the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA).

The representative asked the Licensing Manager for the rationale behind the policy. In response, the Licensing Manager explained that the Council were looking to protect the safety of the travelling public.

The representative, on behalf of the Driver, addressed the sub-committee and stated that he could see through the rear of the vehicle from his current position in the meeting room. He explained that the trade was moving on and things that were acceptable in 2017 and 2019 were now not acceptable.

The representative explained that there was no national legislation in place which provided for a minimum level of tint in the rear of a vehicle, and more cars were now being manufactured with tinted windows. The manufacturer had explained to the Driver that the tints on the windows protect the passenger from UV rays.

The representative advised that he had sent an email to all police authorities within the UK to ask if any connection to crime or complaint had been received due to tinted windows and the police had advised there was not.

The representative had spoken to Licensing Officers and stated his position, that the policy should change to 20% light transparency which would take every manufacturer into account. Officers had advised that a report would be coming before members in relation to CCTV. The representative explained that he was present at the hearing to represent drivers to the best of his ability and he would not tell lies.

It was the representatives view that if the purpose of the policy was to identify anyone in the rear of the vehicle causing trouble or anyone in the back of the vehicle when collecting passengers, they would be able to see through the windows.

The Driver told the sub-committee he was aware of the tinted glass policy but had become confused because the policy had changed from 70% tint to 50% tint. He had spent a lot of time checking cars and inspecting the windows but had found that garages could not tell him what the level of tint was. He had emailed officers to explain the vehicle had between 35-50% of tint, but the reading had come in lower.

The Driver requested members consider changing the policy to avoid causing stress to drivers. On his last vehicle, he had changed the windows and would have been able to use the vehicle for another three years, but he had crashed the car and it had been written off. He had already paid the deposit and commenced financing of the new vehicle.

The Driver's representative referred to the M1 status of the vehicle and state that drivers could to be required to change their vehicle windows as it would diminish the M1 type, these vehicles had been crash tested.

Councillors Alty (Chair), Lomax, Mort and Ogilvie took the opportunity to leave the meeting room and inspect the vehicle outside. Councillor Jane Bell viewed the vehicle from her position within the meeting room. The Chair reminded members that no discussion was permitted whilst the vehicle was being inspected and that discussion could resume when members had returned to the meeting.

Members asked the Driver if he thought to approach the council before purchasing the vehicle to ask for assistance in ensuring the windows were compliant. The Driver explained he did not know the council could help him. He could see through the tint and thought it would be compliant. He had also contacted the manufacturer and was assured the tint was 50%, he believed this as he could see through the windows. After he purchased the vehicle the Driver was advised by a Licensing Officer that he could have borrowed the council's tint measuring device.

Members referred to the point made by the Driver's representative, in that there is no legislation about rear window tints, and explained that Section 47 of the LGMPA 1976 allows for District Councils to attach conditions to Hackney Carriage Licences as appropriate.

The representative agreed that the Council could make policies but stated that those policies would have to be reasonable.

Members asked the representative if he had provided any reports or evidence for the points he was making. In response, the representative explained he had sent a letter to members and in the letter was a link for the Government website explaining the legislation for tinted windows.

The Driver's representative stated that the policy required individuals to be visible in the back of the vehicle and it was his view that you could see through the glass and see what was happening in the rear of the car.

Members asked if the visibility through the rear windows changed in the evening and if the tint became more effective. The representative explained that he could not honestly answer the question and in hindsight he should have checked.

The Licensing Manager asked the Driver why he didn't contact officers prior to the purchasing the vehicle, when he was aware of the policy requirements and the garage had told him the tint was 35-50%. The Driver explained he had made many phone calls to the manufacturer of the car and emailed Officers. The manufacturer had been surprised that he would need to change windows as they stated it had a set function. The Driver explained that every car from 2016 now has some form of tint and the manufacturer advised if he could see through the rear windows the tint would be 50%.

The Driver confirmed he was not sure he could borrow the tint measuring device from the council and that was why he did not call and ask.

The Licensing Manager asked the Driver why he had taken the vehicle to other garages to be checked when the manufacturer advised the tint was between 35-50% as this would still not be compliant with policy. The representative explained the driver was trying to get a correct reading.

The representative stated that he would not suggest to the Driver that he should change the glass as it would take the M1 certificate away.

In response to the Licensing Manager, the Driver explained he had purchased the vehicle in Nelson, and he did not know anyone there who could help him check the windows. He called 15 garages, and nobody had the tech to check the machine, when test driving a vehicle the seller does not allow you to take it 50 miles away. The Driver was sure the windows would be compliant as he could see through them.

In summing up, the Licensing Manager explained that it would be for the Driver to demonstrate exceptional circumstances for members to deviate away from policy. It was his view that the Driver knew the policy was a minimum of 50% and when told by The manufacturer the tint would be 35-50% he knew the vehicle would still not be compliant. Members could not take into consideration a potential change in CCTV policy as there is no certainty that CCTV would be mandated in this area.

The representative summed up on behalf of the Driver and stated that you could see through the back of the vehicle. Although the Driver had not satisfied the policy requirement of 50%, he has shown that you could see through the vehicle. It was his view that this was the main issue.

The representative explained that his view was there was enough for members to agree the application on the grounds that you can see through the back. The representative asked members to consider this carefully before making their decision.

Resolved:

Members resolved to refuse the application for the following reasons:

1. The vehicle does not comply with adopted council policy regarding level of transparency in windows.
2. Members did not consider that there were exceptional reasons to depart from the policy. The transparency requirements exist to protect and ensure the safety of the travelling public and to aid enforcement. Members considered that their primary function is to ensure the safety of the travelling public
3. The personal circumstances of the applicant were not relevant.
4. Members saw no need to align tinting policy to protect the public with the higher level of tinting in high specification vehicles. The applicant had stated that the manufacturer had said the level of tinting was for the comfort of passengers, but safety of taxi passengers was not part of the reasons they gave.
5. If the Driver was not properly advised by the manufacturer about the level of tinting than that is between him and the manufacturer. His contact with the manufacturer concerning tinting before acquiring the vehicle shows that he was aware of the issue.
6. Lack of regulations regarding tinting of rear windows in vehicles is not relevant since district councils may maintain local policies which go beyond basic national requirements.
7. All except one member personally inspected the vehicle in its parked location but were not satisfied that there was wholly satisfactory visibility into the vehicle from the outside especially when viewed by passengers and enforcement officers when in motion. The perspective of the member who did not inspect the vehicle in the parked location was not out of step with the views of the rest of the sub-committee.
8. The issue of CCTV is not relevant as it is not policy to condition it in taxis in South Ribble. Moreover, CCTV inside taxis and limits on window tinting are not mutually exclusive measures.

Chair

Date