



## **Nottingham City Council Regulatory and Appeals Committee**

**Date:** Monday, 10 February 2020

**Time:** 10.00 am

**Place:** Ground Floor Committee Room - Loxley House, Station Street, Nottingham,  
NG2 3NG

**Councillors are requested to attend the above meeting to transact the following business**

**Corporate Director for Strategy and Resources**

**Governance Officer:** Kate Morris **Direct Dial:** 0115 8764353

- 1 Apologies**
- 2 Declarations of Interests**
- 3 Application for Hackney Carriage Vehicle Licence – Converted Hyundai i800** 3 - 22  
Report of the Director of Community Protection
- 4 Private Hire Drivers Licences - Additional Conditions** 23 - 28  
Report of the Director of Community Protection
- 5 Exclusion of the public**  
To consider excluding the public from the meeting during consideration of the remaining item(s) in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 6 Private Hire Drivers Licences - Additional Conditions - Exempt appendix** 29 - 30  
Report of the Director of Community Protection

If you need any advice on declaring an interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting

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## Regulatory & Appeals Committee – 10 February 2020

<b>Title of paper:</b>	Application for Hackney Carriage Vehicle Licence – Converted Hyundai i800	
<b>Director(s)/ Corporate Director(s):</b>	Andrew Errington Director of Community Protection	<b>Wards affected:</b> All
<b>Report author(s) and contact details:</b>	Angela Rawson <a href="mailto:Angela.rawson@nottinghamcity.gov.uk">Angela.rawson@nottinghamcity.gov.uk</a> 0115 8761749	
<b>Other colleagues who have provided input:</b>	Richard Bines, Solicitor <a href="mailto:Richard.bines@nottinghamcity.gov.uk">Richard.bines@nottinghamcity.gov.uk</a> 0115 8764413 Ann Barrett, Team Leader Legal Services <a href="mailto:ann.barrett@nottinghamcity.gov.uk">ann.barrett@nottinghamcity.gov.uk</a> 0115 8764411	
<b>Date of consultation with Portfolio Holder(s) (if relevant)</b>	N/A	
<b>Relevant Council Plan Key Theme:</b>		
Nottingham People		<input type="checkbox"/>
Living in Nottingham		<input checked="" type="checkbox"/>
Growing Nottingham		<input type="checkbox"/>
Respect for Nottingham		<input type="checkbox"/>
Serving Nottingham Better		<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>		
<p>In 1990 the Council first introduced its policy requiring all Hackney Carriages licensed by the City Council to be of a type approved by the London Public Carriage Office, wheelchair accessible and British Racing Green in colour. The Council subsequently adopted further policies relating to the age, specification and appearance of the hackney carriages it will licence.</p> <p>The Council is entitled to depart from its policies if it has good reason to, and the Council has already done so in the past. Over time a number of vehicle types have been included within the Council's Hackney Carriage Vehicle specification, which do not have London Public Carriage Office approval, but otherwise meet the aims and safety requirements of the Council's policy. Such a decision was made by this Committee on 25 September 2017 where 4 electric Hackney Carriage vehicle types were added to the Supplementary Testers Manual despite not having London Public Carriage Office approval. However all vehicles did have M1 Whole Type Approval, meaning the vehicles had all been crash tested in their converted state.</p> <p>Members are asked to determine the application to licence the Hyundai i800 Hackney Carriage conversion for use as a Hackney Carriage Vehicle and to consider whether good reason(s) exist to depart from the Council's current policies.</p>		
<b>Recommendation(s):</b>		
<b>1</b>	To be satisfied that no good reason has been presented to cause the Committee to depart from its existing policy and specification;	
<b>2</b>	To refuse the application to licence the Hyundai i800 Hackney Carriage conversion,	

vehicle registration number EX18 DGV, for use as a Hackney Carriage Vehicle, for the following reasons:

- (i) it is not approved for use by the Public Carriage Office (now Transport for London) and fails to meet their requirements as indicated in Appendix 2 of the report.
- (ii) the Council cannot be satisfied that the vehicle is sufficiently safe and built to the required crash safety standards given that:-
  - a) it does not hold M1 Whole Type Vehicle Approval and, in particular, the partition has not been crash tested to determine its capability during a road traffic accident which could result in safety issues for both the driver and passengers.
  - b) the ramp for wheelchair access is set at a steep angle when attached to the vehicle and flexes when walked on meaning the safety of the passenger could be compromised during loading.
- (iii) the vehicle does not have sufficient access to load all classes of wheelchair users or to allow wheelchair users to be conveyed in comfort and safety and would not be accessible to larger manual nor mechanical wheelchairs.
- (iv) the vehicle does not have a hearing loop for those with auditory limitations
- (v) the status of the vehicle as a category N insurance insurance loss and the number of mechanical failures present at the various times that the vehicle has been presented for testing indicate that the vehicle is either not maintained in a safe condition and/or is susceptible to mechanical and safety failure

## **1 Reasons For Recommendations**

- 1.1 The Council has adopted policies relating to the age, specification and appearance of hackney carriages designed to ensure the safety and comfort of the fare paying public and their accessibility regardless of customer ability. The vehicle in question has been assessed against these policy requirements and does not comply with them in a number of respects outlined in more detail in paragraphs 2.6 – 2.8 below.
- 1.2 The Council may however depart from its policies where there is good reason and the Committee is asked to consider the circumstances of this case and determine whether the vehicle should be granted a hackney carriage vehicle licence.
- 1.3 The vehicle has been inspected on numerous occasions and faults have been found and raised with the Proprietor (as detailed below). Whilst the Proprietor has rectified the majority of the faults found, it is officer's view that the remaining outstanding points render the vehicle unfit for use as a hackney carriage in accordance with the terms of the Council's policies. Hackney Carriage vehicles licensed by Nottingham City Council are designed to be of such appearance and design to support the safety and comfort of the travelling public. As the integrity and safety of the vehicle is in doubt, together with the concerns regarding disability support, there do not appear to be good grounds justifying a departure from existing policies at this time.

## **2 Background (Including Outcomes Of Consultation)**

- 2.1 It is the responsibility of Nottingham City Council to issue Hackney Carriage licences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

- 2.2 Under Section 37 Town Police Clauses Act 1847 the Council may from time to time licence to ply for hire within the City hackney carriages.
- 2.3 Under Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 a Council may require the hackney carriages it licenses to be of such design and appearance or bear such distinguishing marks as shall clearly distinguish it as a hackney carriage, providing the authority for the Council to prescribe vehicle specification requirement in policy.
- 2.4 In 1990 the Council first introduced its policy requiring all Hackney Carriages licensed by the City Council to be of a type approved by the London Public Carriage Office, wheelchair accessible and British Racing Green in colour. The purpose of this policy was to ensure the safety of the vehicles to be licensed and that they were accessible to passengers regardless of ability bearing in mind that a hackney carriage can be hailed and hired by anyone off the street. The requirement for London Public Carriage Office (now Transport for London) approval includes the requirement to have M1 Whole Vehicle Type Approval in place (meaning the vehicle model has been fully crash tested in its converted state and that future vehicles will be built to a consistent and safe standard). The requirements for London Public Carriage Office approval are summarised in Appendix 2. This policy withstood a challenge by way of appeal and was phased in over a number of years with all hackney carriages conforming to this requirement since 1995. The Policy was supported by the approval of a Supplementary Testers Manual detailing the design requirements, approved vehicle type, access, dimensions and layout.
- 2.5 The Council subsequently adopted further policies relating to the age, specification and appearance of the hackney carriages it will licence as follows:
- i) 25 September 2017 – approval of additional models of Hackney Carriage Vehicle , invoking changes to the Supplementary Testers Manual
  - ii) 18 December 2017 - approval of an Age and Specification Policy relating to Hackney Carriage & Private Hire Vehicles which came into effect on 01 January 2018, also invoking changes to the Supplementary Testers Manual. This policy had been the subject of an earlier report to the same Committee on 25 September 2017 and consultation with the private hire and hackney carriage trades.
  - iii) 16 March 2018 - a policy requiring Hackney Carriages to be finished in one colour of the relevant manufacturer's shade of black with a white vinyl wrap roof and the displaying the Council's coat of arms in white.
- 2.6 The Council's Supplementary Testers Manual lists the approved Hackney Carriages that will be licensed by Nottingham City Council from 01 January 2020. This includes some vehicles which have been separately approved as departures from the Council's 1990 Policy. The Hyundai i800 vehicle is not on this approved list albeit it is Euro 6 compliant meaning the engine and the vehicle were both manufactured after September 2015 meeting acceptable limits for exhaust emissions and complying with the latest directive set by the European Union to help reduce the level of harmful pollutants produced by new vehicles. In addition vehicle registration EX18 DGV does not hold the M1 Whole Type Approval as required by the 1990 policy meaning that the safety of the vehicle and the integrity of the build has not been crash tested. Officers cannot therefore be satisfied that it is sufficiently safe and built to the required crash safety standards. Safety concerns, in particular, exist around the partition which is a fixed structure

separating the driver and passenger, in that it has not been crash tested, to determine its capability during a road traffic accident which could result in safety issues for both the driver and passengers.

2.7 The history of this particular licensing application is as follows:-

- i) On 1 September 2018 the Proprietor, Mr Gul Nawaz purchased a Hyundai i800 vehicle registration EX18 DGV with the intention of the vehicle being licensing by Nottingham City Council as a Hackney Carriage vehicle.
- ii) On 28 November 2018, the Proprietor presented the vehicle to Taxi Licensing for a visual inspection prior to submission of any application for advice on whether the vehicle was likely to meet the Council's recommended standards. Upon inspection by Compliance Officers and subsequently a qualified MOT inspector, faults were found as detailed in Appendix 1. The findings were explained to the proprietor as to why the vehicle would be seen as unfit for use as a licensed Hackney Carriage Vehicle.
- iii) On 28 January 2019, the Proprietor resubmitted the vehicle to the Testing Centre on and whilst improvements had been made, the vehicle presented with faults as detailed in Appendix 1.
- iv) On 15 February 2019, the Proprietor resubmitted the vehicle to the Testing Centre on and whilst improvements had been made, the vehicle was again presented with faults as detailed in Appendix 1. Due to the alterations made to the lowering of the seats, concerns were raised about access and egress for those with mobility issues.
- v) On 26 February 2019, the Proprietor resubmitted the vehicle to the Testing Centre on and whilst improvements had been made, the vehicle was again presented with faults as detailed in Appendix 1.
- vi) On 27 December 2019, an application for a Hackney Carriage Vehicle Licence was submitted by Mr Gul Nawaz for vehicle registration EY18 DGV. Upon receipt of the application an HPI check was carried out by the Licensing Office which showed that the vehicle was declared a Category N insurance loss on 13 July 2018. A Category N vehicle is one which has suffered some damage, probably in an accident, but not to its structural frame or chassis. The insurance company that handled the claim decided that repairing the vehicle would have cost more than replacing it. Insurers often sell Cat N vehicles on for salvage. Many are also safely repaired and returned to the road. The vehicle was repaired and subsequently sold to Mr Nawaz who had it converted at Great Northern Cars Ltd, Great Northern road, Keighley.
- vii) On 22 January 2020, the vehicle was presented for MOT and inspection and failed with faults as detailed in Appendix 1. The vehicle at that stage did not comply with the 1990 Policy or Supplementary Testers Manual.
- viii) On 22 January 2020, the vehicle was retested following adaptations, again failing as detailed in Appendix 1. The vehicle at that stage did not comply with the 1990 Policy or Supplementary Testers Manual,
- viii) On 23 January 2020 the vehicle was again presented for inspection and found to be mechanically compliant with the current Supplementary Testing

Manual but still failed to meet the 1990 policy with respect to London Public Carriage Office approval (Appendix 2). Safety concerns were also raised by the tester regarding structural integrity of some of the work which had been carried out, namely the partition separating the driver from the passenger which has not been crash tested to determine its capability during a road traffic accident which could result in safety issues for both the driver and passengers and the steep angle for the wheelchair ramp when attached to the vehicle which also flexes when walked on meaning the safety of the passenger could be compromised during loading. The vehicle has been examined with reference to access by a wheelchair user in a smaller sized manual wheelchair. Whilst the user could access the vehicle, the ceiling to floor height is low and there is very little head room. The passengers head was touching the ceiling and the heating/air conditioning controls. There are therefore concerns about not only the comfort of wheelchair passengers using this vehicle but and the space would be even more restrictive to larger manual or mechanical wheelchairs who would not be able to access this vehicle at all. In addition there are no yellow safety strips on the floor nor retractable straps both meaning that the safety of vulnerable passengers may be affected . The yellow grab handles were painted and would deteriorate over time with repetitive usage. The vehicle is not fitted with a hearing loop meaning that persons with auditory difficulties would be at a disadvantage and would be unable to use the vehicle. In addition although the vehicle has been presented in the manufacturers colour of black, the Council's policy requirement of a vinyl white roof has not been applied until the application has been determined. This however was to save costs pending consideration of the application by Committee, saving the Proprietor unnecessary costs at this stage. If the application were to be approved, the approval should be subject to the application of such a wrap and compliance with the Council's Policy of 16 March 2018

- 2.8 Whilst the vehicle is Euro 6 compliant as required by the Age & Specifications Policy referred to above, the vehicle does not hold the required safety approval. The vehicle has been inspected on numerous occasions and, despite its young age, faults have been found and raised with the Proprietor (as detailed above and in appendix 1). Whilst the Proprietor has rectified the majority of the faults found this raises concerns regarding the safety and maintenance of the vehicle, and the remaining outstanding points, in Officer's view, render the vehicle unfit for use as a hackney carriage in accordance with the terms of the policies of Nottingham City Council. As the integrity and safety of the vehicle is in doubt, together with the concerns regarding disability support, there do not appear to be good grounds justifying a departure from existing policies at this time.

- 2.9 The vehicle is available to view by the Committee should it wish.

### **3 Other Options Considered In Making Recommendations**

- 3.1 None

- 4 Finance Colleague Comments (Including Implications And Value For Money/Vat)**
- 4.1 No financial implications to the Council
- 5 Legal And Procurement Colleague Comments (Including Risk Management Issues, And Legal, Crime And Disorder Act And Procurement Implications)**
- 5.1 Section 37 of the Town Police Clauses Act 1847 (TPCA 1847) empowers a district council to grant licences in its area for Hackney Carriages. The licence relates to the vehicle and not to its owner.
- 5.2 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 allows a Council to require Hackney Carriages licensed by it to be of such design or appearance or to bear distinguishing marks as it requires to enable them to be clearly distinguished as hackney carriages. In addition the Council is entitled to have a policy or policies relating to classes of application. The Council can therefore lawfully have policies and prescribe a vehicle specification of the type approved.
- 5.2 As indicated in the body of the report, the Council's current specification was originally prescribed in 1990. Whilst the Council is entitled to have a policy as to the type of vehicles it will licence it may depart from that policy where there are good reasons to do so. Case law has held that "A public authority cannot lawfully fetter itself so as to follow blindly an adopted policy. It must maintain at least the possibility of departure from an adopted policy in an appropriate case and it must keep an open mind as to whether it should depart from the accepted policy in any given case". The Council has followed this approach previously where vehicles have met the aims of the Council's current specification (ie were wheelchair accessible, safe, met the needs of the travelling public, etc) but lacked London Public Carriage Office approval. It is therefore within the Committees power to determine the application and whether good reason exists to depart from its policies in the specific circumstances of this case.
- 5.3 Section 7 of the Public Health Acts Amendment Act 1907 provides that an appeal against a local authority's refusal to grant such a licence may be made at the Crown Court. Under the Crown Court rules 1982 notice of appeal must be given no less than 21 days after the decision appealed against is given. Such an appeal is by way of rehearing of the application.
- 6 Strategic Assets & Property Colleague Comments (For Decision Relating To All Property Assets And Associated Infrastructure) (Area Committee Reports Only)**
- 6.1 N/A
- 7 Equality Impact Assessment**
- 7.1 An EIA is not required because the Supplementary Testing Manual and the policies relating to standards to which vehicles are tested have previously been approved by this Committee.

**8 List Of Background Papers Other Than Published Works Or Those Disclosing Confidential Or Exempt Information**

8.1 None

**9 Published Documents Referred To In Compiling This Report**

9.1 Town Police Clauses Act 1847

9.2 Local Government (Miscellaneous Provisions) Act 1976

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**APPENDIX 1**

**HYUNDAI I800 CONVERSION - INSPECTION REPORTS**

**IDENTIFIED ISSUES**

**28/11/2018**

Insufficient headroom when sitting on fold up seats

Straps to secure wheelchair were left attached to the vehicle and were a trip hazard

The grab handles were positioned so that a passenger could not put their hand through them

The wheelchair ramp was secured at the rear of the seats in the luggage area by two flimsy straps

Heater controls sited in the roof lining in a position where a customer could bang their head

The ramp did not lock into place when in position to load a customer in a wheelchair

The plastic security screen had sharp edges and there was no bulkhead protection in place

The edges of the steps were painted yellow instead of having a plastic strip

There was no price made available for the completed vehicle

The vehicle did not have M1 EU Whole Vehicle Type Approval

**21/01/2019**

Still insufficient headroom when sitting on the fold up seats

Removed and quick release fittings put in place

Repositioned so they were useable

Additional support put in place to secure the ramp

Heater controls removed but replaced by a patch held in place in the roof lining with screws. The screwheads were uncovered and posed a risk to passengers who could catch their head on them  
Two nuts and bolts fitted to the ramp and two holes drilled into through the floor of the vehicle

Edging placed around the screen and bulkhead fitted.

No change

No price available

No EU Whole Vehicle Type Approval



**15/02/2019**

Seats had been lowered to improve headroom but in turn would make egress from the seats more difficult for persons with mobility issues

Screwheads had been covered by caps but the overall finish of the patch was very poor

No price available

No EU Whole Vehicle Type Approval

### **Inspection at Eastcroft depot 26/02/2019**

poor build quality around the holes with sharp edges, screw head caps missing, the heater unit being refitted poorly and the use of grub screws.

The frame for restraining the wheelchair ramp is held in place using wood screws which have been poorly fitted and one of the screws protrudes through the floor underneath the vehicle and could cause injury to anyone testing or working on the vehicle.

The bulkhead has been bolted through the floor pan but is not secured to the chassis/cross member of the vehicle and although a plate has been used to secure the nut, in the event of an accident could give way on impact.

The step is held in place using 10mm grub screws which is not sufficient to hold the weight of a passenger. It does not have a device to lock it into place and could tear the sill and cause injury to a passenger.

The fixing of the ramp is of poor standard, 10mm bolts have been used to locate/secure the ramp to the vehicle. These bolts have not been load tested and locking devices are missing.

The 10mm nuts are loose and may work free

The holes drilled into the floor for the ramp have broken the floor integrity. The road is visible from the vehicle and water can ingress into the passenger compartment

The bolts for the bulkhead are too long and have started to push through into the outer shell of the roof of the vehicle. It is not possible to identify what if anything these bolts are secured to. The scree is of poor standard with sharp edges, some protected with a black rubber seal but there are areas that aren't.

**MOT at Eastcroft depot 22/01/2020 - FAILED**

Two of the rear seat mounting bolts did not have locking devices

Top sign was poorly fitted and didn't follow the contours of the roof, subsequently leaving a large gap. Light was visible and this could result in water ingress.

Front nearside seat belt did not retract and was partially held by the bulkhead.

MOT retest 22/01/2020

Seat mount bolts have now been fitted with locking devices however the strengthening plate was missing.

Top sign reworked and now flush to the roof

Front nearside seat and seatbelt removed.

Eastcroft depot 23/01/2020

Strengthening plate refitted



PCO (TfL) REQUIREMENTS	
1	Every new type of taxi offered for approval must comply in all respects with British and European regulations and be "type approved" to the requirements of the M1 category of European Whole Type Approval Directive 2007/46/EC as amended. Those taxis which have not been type approved to the M1 category (e.g. conversions) must be presented with approved certification that the specific vehicle meets the requirements of that category.
2	The steering wheel must be on the offside of the vehicle
3	All tyres must comply with the relevant legislation.
4	An anti-lock braking system is to be fitted
5	Adequate lighting must be provided for the passengers and driver
6	Separate lighting controls for both passengers must be provided. In the case of the passengers compartment an illuminated control switch must be fitted in an approved position. This must be within reach of wheelchair passengers. Lighting must also be provided at floor level to each passenger door and be activated by the opening of the doors.
7	The body must be of the fixed head type with a partially glazed partition separating the passenger from the driver.
8	Every taxi must be equipped to approved standards in order that wheelchair passengers may be carried
9	Approved anchorages must be provided for the wheelchair tie downs and the wheelchair passenger restraint. These anchorages must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and occupant must be independent of each other. Anchorages must be provided for the safe stowage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
10	The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75cm. The minimum angle of a hinged door when opened must be 90 degrees
11	The clear height of the doorway must not be less than 1.2 metres
12	Grab handles must be placed at door entrances to assist the elderly and disabled. All grab handles must be of a contrasting colour.
13	The top of the tread for any entrance should normally be at floor level of the passenger compartment and comply with the following requirements. Be no more than 380mm from

	the ground, covered in a non slip material and have a band of colour across the entire width of the edge which shall contrast with the remainder of the tread and floor covering
14	Should any entrance be more than 380mm from the ground an external interim step must be made available when the associated passenger door is opened and comply with the following requirements; not be more than 380mm in height from the ground, not be less than 250mm deep, covered in a non slip material, have a band of colour across its leading edge which shall contrast with the remainder of the step/floor covering, not be capable of operation whilst the vehicle is in motion, if automatic or powered be fitted with a safety device which stops the motion if the step is subject to a reactive force not exceeding 150N in any direction and if that motion could not cause injury to the passenger, can fold or retract so that it does not project beyond the side face of the vehicle and the vehicle is not capable of being driven away inless the step is so folded or retracted.
15	The vertical distance between the highest part of the floor and the roof in the passenger compartment must not be less than 1.3 metres.
16	A ramp for the loading of a wheelchair and occupant must be available at all times for use, as a minimum, at the nearside passenger door. The ramp must have a safety lip be 70cm wide as a minimum an compromise a single non slip surface. An adequate locking device must be fitted to ensure that the ramp does not slip or tilt when in use. provision must be made for the ramp to be stowed when not in use.
17	Colour contrasting sight patches are required on all passenger seats
18	An induction loop system or equivalent must be fitted

	<b>HYUNDAI I800 CONVERSION</b>
<b>1</b>	<b>This vehicle does not meet this requirement as it has been given a basic Individual Vehicle Approval Confirmation of Compliance.</b>
2	Meets this requirement
3	Meets this requirement.
4	Meets this requirement
5	Meets this requirement
<b>6</b>	<b>Does not meet this requirement</b>
7	Meets this requirement
8	Meets this requirement
<b>9</b>	<b>Approved anchorages have been provided with this vehicle however as this vehicle does not have EU Whole Vehicle Type Approval, it is not known how they or the anchorage points would react in the event of an accident.</b>
<b>10</b>	<b>Sliding doors provide access to the passenger compartment. 90cm</b>
11	Meets this requirement – 1.4m
12	Meets the requirement
<b>13</b>	<b>Floor is covered with a non slip material No band of colour across the edge Partially meets this requirement</b>
14	<b>Step is 200mm from the ground. No band of colour on it. Also no non-slip material (just metal). Partially meets this requirement</b>

15	<b>1.27m Does not meet this requirement</b>
16	<b>Ramp provided. There is some concern about the locking device as it is not a purpose made system</b>
17	<b>Fitted</b>
18	<b>Does not meet this requirement - Not fitted</b>

**Regulatory & Appeals Committee – 10 February 2020**

Agenda Item 4

<b>Title of paper:</b>	Private Hire Drivers Licences - Additional Conditions	
<b>Director(s)/ Corporate Director(s):</b>	Andrew Errington Director – Community Protection	<b>Wards affected: ALL</b>
<b>Report author(s) and contact details:</b>	Angela Rawson 0115 8761749 <a href="mailto:Angela.rawson@nottinghamcity.gov.uk">Angela.rawson@nottinghamcity.gov.uk</a>	
<b>Other colleagues who have provided input:</b>	Ann Barrett, Team Leader Legal Services 0115 8764411 <a href="mailto:ann.barrett@nottinghamcity.gov.uk">ann.barrett@nottinghamcity.gov.uk</a>  Dionne Screatton, Solicitor 0115 8764404 <a href="mailto:dionne.screatton@nottinghamcity.gov.uk">dionne.screatton@nottinghamcity.gov.uk</a>	
<b>Date of consultation with Portfolio Holder(s) (if relevant)</b>	N/A	
<b>Relevant Council Plan Key Theme:</b>		
Strategic Regeneration and Development		<input type="checkbox"/>
Schools		<input type="checkbox"/>
Planning and Housing		<input type="checkbox"/>
Community Services		<input type="checkbox"/>
Energy, Sustainability and Customer		<input checked="" type="checkbox"/>
Jobs, Growth and Transport		<input checked="" type="checkbox"/>
Adults, Health and Community Sector		<input type="checkbox"/>
Children, Early Intervention and Early Years		<input type="checkbox"/>
Leisure and Culture		<input type="checkbox"/>
Resources and Neighbourhood Regeneration		<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>		
<p>Consideration of the matters outlined in this report was deferred from the meeting of Regulatory and Appeals Committee on 16 December 2019 following the late submission of representations from a2z Licensing. Whilst the proposals were supported in principle a formal determination was deferred for further legal advice which is contained in the exempt appendix to this report. The Committee is asked to note the report and approve the additional conditions at Appendix 1 to be imposed upon the grant of any new Private Hire Drivers Licence or renewal of an existing Private Hire Drivers Licence and that drivers who intend to drive for more than one operator during the currency of their existing licence be asked to voluntarily abide by similar conditions.</p>		
<b>Exempt Information:</b>		
<p>An appendix to this report is exempt from publication under paragraph number 5 of Schedule 12A to the Local Government Act 1972 because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>It is in the public interest to maintain the exemption to enable full and frank discussion around the prospects of success of a threatened legal challenge</p>		

<b>Recommendation(s):</b>	
<b>1</b>	To note the contents of the report.
<b>2</b>	(i) the additional conditions in Appendix 1 are imposed on the grant of any new Private Hire Drivers Licence or renewal of an existing Private Hire Drivers Licence; (ii) that existing drivers who intend to drive for more than one operator be asked to sign and comply with a voluntary undertaking outlined in Appendix 2,

## **1 Reasons For Recommendations**

- 1.1 Private Hire Drivers have recently raised the subject of being able to work for more than one operator. The practice itself is not illegal but historically has not been encouraged by the Taxi Licensing Authority. In the event that Private Hire Drivers were to take up this practice it is felt, where possible on the grant of any new Private Hire Drivers Licence or renewal of an existing Private Hire Drivers Licence, that additional conditions are required to assist in supporting existing safeguarding measures. The proposed additions are listed in Appendix 1.
- 1.2 Private Hire Drivers Licence conditions cannot be added retrospectively to existing licences and can only be applied upon the grant of a new licence or renewal of an existing licence. Therefore, it is proposed to request existing private hire licenced drivers who wish to work for more than one operator, to sign a voluntary undertaking, to abide by the additional conditions in support of upholding safeguarding measures. The sample undertaking is appended in Appendix 2 for noting.

## **2 Background (Including Outcomes Of Consultation)**

- 2.1 A report on these issues is being brought back to Committee following the deferral of a similar report on 16 December 2019 as outlined in the Summary above. A copy of the late submissions raised by a2z licensing are attached as Appendix 3 to this report.
- 2.2 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) permits Councils upon application to grant a person a licence to drive Private Hire vehicles provided that person is deemed fit and proper.
- 2.3 Under section 51(2) of that Act, the Council may also attach to the grant of such licence conditions as it may reasonably necessary, but in relation to which there is a right of appeal to the Magistrates’ Court under section 52 of the Act by any person aggrieved by any conditions attached.
- 2.4 Historically, the practice in Nottingham has been that drivers only worked for one Private Hire Operator which holds the original copy of the drivers paper licence. However, the Council has recently been approached for clarification on the position regarding drivers working for more than one operator, a practice that is and has been commonplace in other Taxi Licensing Authorities. This is not just in rural authorities as suggested in a2z’s letter but also in areas such as Leicester, Birmingham and Derby.
- 2.5 The primary benefit to a licensed driver would be the choice to move between operators as work and the commercial market fluctuates, a practice which is common in other Licensing Authorities. An example of when a driver may wish to work for more than one operator could be when ‘surge pricing’ occurs. Surge pricing is a commercial way of managing an optimum travel period where increased

fees are charged by the operator which in turns can result in more revenue for the driver.

- 2.6 It is considered reasonably necessary, in the interest of public safety for safeguarding purposes to ensure that the Licensing Authority has an accurate record of the company a driver is working for at any point in time, so it is intended to add the conditions attached at Appendix 1 to all grants of a new private hire driver licences or renewal of an existing private hire driver's licence. Whilst it is not legally possible to impose such conditions on existing licences, prior to renewal, it is proposed that existing private hire drivers who intend to work for more than one operator will be requested to provide an undertaking to abide by the additional conditions as outlined in Appendix 2 until such time as they can be legally imposed at renewal. This is to seek to ensure that the same safeguarding standards are maintained.. It is accepted however that the latter would be on a voluntary basis.
- 2.7 Conditions 15(i) and (ii) aim to ensure that licensing records are updated on a regular basis so that should concerns be raised, there is a record of which operator the driver is attached to.
- 2.8 At present a driver is required to deposit with the operator they are working for the original copy of their Nottingham City Council drivers licence. If a driver is intending to work for more than one operator then it is proposed that a mandatory requirement is imposed requiring that a certified copy licence be held by each additional operator, prior to commencement of any work for that operator. The driver should obtain the certified copy from the Licensing Office at their own cost.
- 2.9 Condition 15(iii) again relates to safeguarding and ensures that the Nottingham City Council hold the latest information as to the drivers work pattern. Should concerns become apparent, the enforcement officers will have a starting point for their enquiries.
- 2.10 Customer safety is of paramount importance and to ensure that the passenger can identify the company they have called, condition 15(iv) requires that the driver displays the panel of the company they are driving for at the time of hiring.
- 2.11 Cumulatively, these proposals not only give the driver more commercial opportunities but also provide appropriate safeguarding protection for the travelling public.
- 2.12 Various objections were raised to these proposals in the late submissions made by a2z which were reported verbally to the committee on 16 December 2019 and resulted in the matter being deferred for further legal advice. That advice is now attached in the Exempt Appendix to this report.

### **3 Other Options Considered In Making Recommendations**

- 3.1 Not applying additional conditions or seeking a voluntary undertaking, As outlined in paragraph 1.1 the practice of working for more than one operator is not unlawful the option of doing nothing was disregarded as it is felt that additional conditions are appropriate to protect the public.

### **4 Finance Colleague Comments (Including Implications And Value For Money/Vat)**

- 4.1 None

## **5 Legal And Procurement Colleague Comments (Including Risk Management Issues, And Legal, Crime And Disorder Act And Procurement Implications)**

- 5.1 A district council may attach to the grant of a licence under section 51 of the Act such conditions as they may consider reasonably necessary.
- 5.2 The Committee should note that under s 52 (2) of the Act any person aggrieved by any conditions attached to the grant of a driver's licence may appeal to a magistrates' court.
- 5.3 There is no provision within the Act to impose conditions other than on the grant of a licence to a driver under section 51 (i.e. initially or on renewal). It would be unlawful to impose additional conditions during the term of an existing Private Hire Vehicle Driver's Licence. An existing Private Hire Vehicle Licensed Driver could only be requested to abide by the proposed additional conditions, as per the suggested undertaking.
- 5.4 There is no restriction under the Act prohibiting a driver working for more than one operator.
- 5.5 If a Private Hire Vehicle Licenced driver were to choose to work for more than one operator, any conditions that could be attached to the grant (initially or on renewal) of a licence must be reasonably necessary in order to comply with section 51(2) of the Act. The paramount consideration in the licensing of a Private Hire Vehicle driver is always the welfare and safety of the public. The conditions are recommended as reasonably necessary in the interest of public safety for safeguarding purposes and to ensure the tractability of pre-bookings.
- 5.7 Given the potential threat of legal proceedings contained in a2z's letter of 14 December 2019 further exempt legal advice on the issues raised by that letter is given in the exempt Appendix to this report

## **6 Strategic Assets & Property Colleague Comments (For Decision Relating To All Property Assets And Associated Infrastructure) (Area Committee Reports Only)**

- 6.1 None

## **7 Equality Impact Assessment**

- 7.1 Has the equality impact of the proposals in this report been assessed?

No. This report does not include substantive changes to policy, services or functions that negatively impact differentially on any group with protected characteristics

## **8 List Of Background Papers Other Than Published Works Or Those Disclosing Confidential Or Exempt Information**

- 8.1 None

## **9 Published Documents Referred To In Compiling This Report**

- 9.1 Local Government (Miscellaneous Provisions) Act 1976

**Proposed Additional Conditions  
Private Hire Drivers Licence**

“15. Where the driver proposes to operate for more than one operator they shall

i) provide the Council with a signed offer of work letter from each operator they propose to work for prior to the commencement of such work with the Operator.

ii) give 7 days prior notification to the Council when

a) commencing work as a Private Hire Vehicle Licensed Driver for the second or subsequent operator

b) ceasing work as a Private Hire Vehicle Licensed Driver for an Operator but if such work is commenced or ceased on fewer than 7 days' notice the driver shall comply with i) or ii) above within 24 hours of commencing/ceasing such work.

iii) provide each Operator they work for with copies of their Private Hire Driver Licence together with the Private Hire Vehicle Licence certified by the Council. The costs of the Council in providing certified copies shall be borne by the driver.

iv) ONLY display the side panel for one operator on the vehicle at any given time that being the Operator with whom the specific hiring is booked.”

## Undertaking

### Existing Private Hire Vehicle Driver Licence working for more than one operator

I,

Of:

Licensed under

Private Hire Vehicle Driver Licence Number:

Private Hire Vehicle Licence Number:

intend to carry out work for the following Nottingham City Council Licensed Operators:

[List operators details ]

on:

As such, I undertake to abide by the following additional conditions:

I shall

- i) provide the Council with a signed offer of work letter from each operator I propose to work for prior to the commencement of such work with the Operator.
- ii) give 7 days prior notification to the Council when
  - a) commencing work as a Private Hire Vehicle Licensed Driver for the second or subsequent Operator
  - b) ceasing work as a Private Hire Vehicle Licensed Driver for an Operator but if such work is commenced or ceased on fewer than 7 days' notice I shall comply with i) or ii) above within 24 hours of commencing/ceasing such work.
- iii) provide each Operator I work for with copies of my Private Hire Driver Licence together with the Private Hire Vehicle Licence certified by the Council. The costs of the Council in providing certified copies shall be borne by me.
- iv) ONLY display the side panel for one Operator on the vehicle at any given time that being the operator with whom the specific hiring is booked.

I understand that should I fail to comply with any of the conditions above it could lead to my licence being reviewed.

Signed:

Print Name:

Date:

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