

COUNCIL POLICY ON TINTED WINDOWS IN HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

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Portfolio: Safer and Stronger Communities

Ward(s) affected: All

Purpose of the Report

To amend the Council's policy on the suitability of vehicles fitness to be licensed for use as Hackney Carriage or Private Hire with consideration to darkened / tinted windows.

Recommendations

(a) That the Councils policy on the licensing of Hackney Carriage and Private Hire vehicles be amended to state that Vehicles will not normally be licensed as Private Hire or Hackney carriage vehicles unless:

- (i) All glass (including windows or transparent material) behind the "B" post allows at least 70% of light to be transmitted through it.**
- (ii) No vehicle shall be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.**

(b) That the application form and guidance be brought up to date to reflect the amended policy

Reasons

The Council cannot licence a private hire vehicle unless it is satisfied that the vehicle is suitable in size type and design, safe and comfortable. It may attach such conditions as it considers reasonably necessary to the grant of a Hackney carriage licence.

The above change to the Councils policy outlines a measurable value for the minimum amount of light that must pass through the vehicles window glass or other transparent material on a Hackney Carriage or Private Hire Vehicle which is considered by your Officers to provide satisfactory safety and comfort. It also provides clarity and consistency.

1. Background

1.1 At the last meeting of this Committee Members consideration was given to a report on the suitability of a private hire vehicle licensed while having darkened windows and to consider the position of the other licensed vehicles on the road it was resolved :-

- (a) That the driver in question be allowed to continue with this vehicle until such time that it is required to be replaced.**
- (b) That a letter be sent to operators and drivers informing them that licensed vehicles with darkened windows to be brought to the Civic Offices for inspection and to be registered.**

- (c) That after 18 April 2012, the Council's policy regarding darkened windows will be strictly enforced. The garage is to be informed to not pass any further vehicles with darkened windows.
 - (d) That a checklist for testing vehicles be issued to the depot.
 - (e) That all vehicles are brought to the Civic Offices for inspection to ensure that they comply with all of the Council's requirements.
 - (f) That the application form be brought up to date stating no darkened windows.
- 1.2 Officer were of the view that given the granting of the licence it would be helpful to Members to have further information to enable them to fully consider and if appropriate to clarify the Council's policy on tinted windows. It was also the case that the report related to Private Hire Vehicles and it was felt appropriate that the policy on Hackney Carriages should also be addressed as this is the same but based on different legislation.
- 1.3 The Road Vehicles (Construction and Use) Regulations 1986 as amended specifies the minimum levels of light that must pass through the windscreen and front side windows. For vehicles first used prior to 1 April 1985, the windscreen and front side windows must allow at least 70% of light to be transmitted through them. For vehicles first used on or after 1 April 1985, the light transmitted through the windscreen must be 75% and 70% through the front side windows. If the glass is tinted to a point whereby it lets less light through, then the vehicle does not meet the legal requirements.
- 1.4 The garage will therefore not pass any vehicle which does not meet the above requirement. Hence a vehicle would not pass an MOT and/or be deemed acceptable to be a licensed taxi if it did not allow the appropriate amount of light through the windscreen and front side windows.
- The legislation does not lay down any criteria for any other windows within the vehicle.
 - Excessively tinted glass, rear of the 'B' post, (see Fig. 1 below), is referred to as Privacy Glass. Privacy glass is defined as glass that is of a darker shade (regardless of how much darker) behind the 'B' post of a vehicle when compared to the glass that is in front of it.
 - When Hackney Carriage & Private Hire vehicles undergo an inspection, local licensing authorities will need to determine what constitutes tinted 'privacy' glass. As explained above, the Regulation is quite specific with regard to permissible light levels for tinted glass for windscreens and front side windows, but not for windows behind the "B" post.
 - Lack of visibility caused by 'tinted glass' is seen as a serious public safety issue. It is deemed best practice and in the interests of passenger and driver safety, and an aid to enforcement, if there is good visibility through windows behind the "B" post.
 - In practice Authorities have local policies which support the national legislation. These lay down local requirements the vehicle design is normally expected to reach.
 - It should be noted the amount of light that is transmitted through any window can be measured with a light meter device. Newcastle Borough Council garage have one.



- 1.4 The Councils current policy is that Hackney carriage and Private hire vehicles must not be fitted with tinted windows. However each application must be dealt with on its own merits and the Council cannot in law bind its discretion. Accordingly, where your Officers apply the policy and do not grant an application the applicant is entitled to have their vehicle considered by the Committee and indeed if refused to appeal to the Magistrates court which will apply the same statutory test and is required to have regard to the Councils policy.
- 1.5 There has also been a trend amongst the majority of the vehicle manufacturers to fit tinted glass to new vehicles as standard. For example Vauxhall Astras can no longer be purchased with clear windows, the options are 'light tint' or 'dark tint'.
2. **Issues**
- 2.1 The Council cannot licence a private hire vehicle unless it is satisfied that the vehicle is suitable in type size and design and safe and comfortable for the Public including consideration of the safety of vulnerable passengers. It may attach such conditions to Hackney carriage licences as it considers reasonably necessary.
- 2.2 In respect of visibility through windows in Hackney Carriage and Private Hire vehicles local licensing authorities need to enforce the appropriate legislation and have fair and enforceable regulations which are clear to all parties. In determining the standard the Council may consider the following:
- **Passenger Confidence** – Hackney Carriage & Private Hire vehicles provide a service to the public. Passengers need to be comfortable with the fact that the vehicle they are about to enter, meets the required legislation. Some passengers particularly vulnerable passengers will feel safer if they can be seen from outside the vehicle.
 - **Enforcement** – Heavily tinted glass prevents enforcement officers including Police officers from carrying out a quick visual check without stopping the vehicle. An operator may be less likely to infringe on licensing seating restrictions if the number of seats can be clearly seen. Furthermore, during enforcement exercises common practice has always been to, wherever possible, stop vehicles when empty to minimize inconvenience to passengers. It is awkward to determine a full or empty vehicle with heavily tinted glass.
 - **General Safety** – At certain times of the day there are occasions where it is in the interests of the drivers or passengers to be on full view. Some passengers will not always be behaving reasonably. Passengers or drivers on full view may help to reduce unacceptable behaviour. Incidents that could compromise the safety of the driver or passengers may not be seen from outside the vehicle. In the event of an accident clear visibility may assist the Emergency services.

- **Road Safety** – whilst it could be argued that tinted glass may improve driving ability during bright conditions, during the hours of darkness it will restrict the driver's ability to have all round vision and awareness.

3. **Options Considered**

3.1 A number of options can be considered:

Option 1 - Continue with the current policy.

It may be difficult to justify refusal on the basis of a limited level of tinting which still allows a reasonable level of visibility. Further if this option is pursued the number of applications permitted by the Committee and possibly successful appeals to the Magistrates court will increase.

Option 2 - To amend the policy by setting a normal minimum measurable level of visibility through all glass and other transparent material on the vehicle.

All glass behind the "B" post must allow at least 70% of light to be transmitted through them. This ensures all glass in the vehicle is at the visibility standard which is deemed acceptable by VOSA for front passenger windows, as demonstrated at MOT test.

4. **Proposal**

(a) That the Councils policy on the licensing of Hackney Carriage and Private Hire vehicles be amended to state that Vehicles will not normally be licensed as Private Hire or Hackney carriage vehicles unless

- (i) All glass (including windows or transparent material) behind the "B" post allows at least 70% of light to be transmitted through it.
- (ii) No vehicle shall be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

(b) That the application form and guidance be brought up to date to reflect the amended policy

5. **Reasons for Preferred Solution**

5.1 The Council cannot licence a private hire vehicle unless it is satisfied that the vehicle is suitable in size type and design, safe and comfortable. It may attach such conditions as it considers reasonably necessary to the grant of a Hackney carriage licence

5.2 The above change to the Councils policy outlines a measurable value for the minimum amount of light that must pass through the vehicles window glass or other transparent material on a Hackney Carriage or Private Hire Vehicle which is considered by your Officers to provide satisfactory safety and comfort. It also provides clarity and consistency.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

The proposal advances the Councils Corporate objectives of:

- Creating a cleaner, safer and sustainable borough
- Creating a Borough of opportunity

7. **Legal and Statutory Implications**

- 7.1 When considering any application for a Private Hire Vehicle Licence, the Council, in accordance with Section 48(a) (i) (iv) and (v) of the **Local Government (Miscellaneous Provisions) Act 1976** shall not grant such a licence unless they are satisfied that the vehicle is suitable in type size and design for use as a private hire vehicle, safe and comfortable.
- 7.2 By section 47 of the Act the Council may attach to the grant of a Hackney carriage licence such conditions as it may consider reasonably necessary. The range of conditions is wide and can therefore encompass safety comfort and design.
- 7.3 The Council may adopt a policy but should be clear that this is a policy not an immutable rule and each case must be dealt with on its own merits.

8. **Equality Impact Assessment**

- 8.1 Equality issues are dealt with in the body of the report.

9. **Financial and Resource Implications**

- 9.1 Unreasonable decisions may lead to awards of costs in the magistrate's court and wasted Officer resource. A clear and reasonable policy assists in delivering efficiency

10. **Major Risks**

- 10.1 If public safety is compromised there is a risk of reputational and indeed financial damage to the Council. Alternatively unreasonable refusal may lead to reputational and financial detriment.

11. **Sustainability and Climate Change Implications**

There is no major sustainability and climate change implications from this report.

12. **Earlier Cabinet/Committee Resolutions**

- 12.1 This issue was discussed at 11 April Public Protection Committee, and this paper provides additional information.

13. **Background Papers**

Department for Transport - Taxi and Private Hire Vehicle Licensing: Best Practice Guidance. Hackney Carriage and Private Hire Inspection Technical Officer Group (Freight Transport Association/PATN): Hackney Carriage and Private Hire Vehicle, National Inspection Standards, 2009.

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More details on privacy glass are available from: www.roads.dft.gov.uk/vehicle/standards