

TO THE CHAIR AND MEMBERS OF THE LICENSING COMMITTEE

Hackney Carriage and Private Hire Licensing Policy – Appendix 6:C Private Hire Vehicle – Vehicle Specifications (10. Tints to windows)

EXECUTIVE SUMMARY

1. The Doncaster Council Hackney Carriage and Private Hire Licensing Policy (HC & PH Licensing Policy) includes details of vehicle specifications, licence conditions and the pre-requisite requirements that must be met before a licence will be granted.
2. It is Doncaster Council's current policy that tinted rear windows which inhibit the ability to clearly see passengers from the outside of the vehicle are not permitted on private hire vehicles.
3. Whilst there are no proposed changes to the suitability test for licensed drivers and operators, this report seeks to review the Policy in respect of the Council's minimum specifications for private hire vehicles to take account of the proliferation of vehicles now manufactured with darkened glass fitted to windows rearward of the driver.

RECOMMENDATIONS

4. It is recommended that the Council's Private hire vehicle specifications be revised to permit all vehicles, manufactured with dark tinted rear windows, to be licensed to operate as private hire vehicles.
5. To facilitate this revision, it is recommended that Section 10 (Tints to windows) of Appendix 6:C Private Hire Vehicle – Vehicle Specifications of the HC & PH Licensing Policy be replaced with:

Tinted windows

All tinted and anti-glare windows must comply with the relevant Road Traffic Act and / or Construction and Use Regulations requirements.

Only tinted and anti-glare windows fitted by the vehicle's manufacturer are acceptable.

6. There are no proposed changes to the existing Hackney Carriage Specification i.e. all rear windows must allow at least 70% transmission of light (HC & PH Licensing Policy - Appendix 6: A).

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER

7. By implementing the recommendation of this report, the Doncaster Council HC & PH Licensing Policy will remain up to date and fit for purpose. The safety of the travelling public of Doncaster will not be compromised and, moreover, will be upheld by the recommendations of this report by ensuring high specification, quality vehicles can be licensed for private hire use.

BACKGROUND

8. The current law requires all vehicles to allow not less than 75% transmission of light through the front windscreen and not less than 70% transmission of light through the front passenger/driver side windows. There are no regulations relating to rear passenger windows or rear windscreens (i.e. all windows rear of the front driver/passenger seats). This facilitates the proliferation of vehicle manufacturers that provide, as standard, dark tinted rear windows.
9. A significant number of vehicle manufacturers offer the option of very dark windows behind the front driver/passenger seats and an increasing number fit these windows as standard without the option of alternate clearer glass.
10. The main benefits of dark tinted glass are considered to be:
 - Improved privacy;
 - Added protection from ultraviolet rays (UV) coming from the sun;
 - Improved thermal comfort by reducing heat build-up inside the vehicle; and
 - Aesthetic appearance by enhancing the look of the vehicle.
11. Private hire vehicles (PHVs) provide a valuable public transport service for schools, safeguarding agencies, local residents and visitors to Doncaster. The benefits of dark tinted glass, detailed above, are arguably desirable attributes for any PHV with the exception, at first glance, of the improved privacy.
12. Dark tinted windows fundamentally make it more difficult to see into the rear of a vehicle. For licensed vehicles this presents a number of potential paradoxes:
 - Activities taking place in the vehicle cannot be viewed from the outside posing a potential risk to both passengers and driver.
 - Enforcement officers need to see that the maximum number of passengers the vehicle is licensed to carry is not being exceeded.
 - Vulnerable passengers, for example young persons, the elderly and lone females may feel safer in a vehicle where they can be seen.

- Private hire vehicles that are adapted to carry wheelchair passengers by their nature tend to have large expanses of glass. The ability for these windows to be tinted would afford passengers improved comfort and make the whole experience more pleasant.
 - In some circumstances it may be the customers preference to be afforded the privacy provided by darkened glass e.g. executive hire
13. The HC & PH Licensing Policy (the Policy) was first adopted by Council on 19th January 2012. It is within the remit of the Licensing Committee to determine this Policy. The Policy is regularly reviewed and was last revised by the Licensing Committee on 17th March 2016.
14. The Council consulted widely on the Policy prior to its adoption in January 2012. At that time the Council resolved to adopt the Policy which includes the existing private hire vehicle specification in respect of window tints. This specification effectively does not permit dark tinted rear windows in all hackney carriages and private hire vehicles licensed by the Council. The specifications relating to window tints have remained unchanged from their initial adoption in 2012. The current specification for private hire vehicles is as follows:

Tints to windows

*Tinted windows, which inhibit the ability to clearly see passengers or the driver from the outside of the vehicle, are not permitted.
All vehicles must comply with the following:*

- *The front windscreen shall allow at least 75% of light to be transmitted through it.*
- *The front side windows shall allow at least 70% of light to be transmitted through them.*
- *All other windows shall allow at least 70% of light to be transmitted through them.*

However, the Council recognise that vehicles may be manufactured with glass rearward of the driver that is darker than that allowing 70% of light to be transmitted through, especially in estate and multi-purpose vehicles (MPVs). Therefore, due to the large cost and inconvenience associated with changing glass that conforms to both type approval and construction and use regulations, the Council may exercise discretion for those vehicles which have manufactured window tints. The discretion will be based around the ability to clearly see passengers from the outside of the vehicle. Vehicles fitted with aftermarket tinted windows that do not meet the 70% rule for windows rearward of the driver will not be accepted.

Vehicles can be presented for an informal test on the tint meter at no cost. Contact the Licensing team to arrange a convenient test time.

15. Officers have experienced an increasing need for glass to be replaced in an ever increasing number of new vehicles presented for licensing as private hire vehicles. This is because an increasing number of vehicles are now manufactured with dark tinted rear windows as standard. It has also been noted that, in some instances, the Council is refusing to licence vehicles due to darkened rear windows and there being no glass options available to allow the glass be replaced.
16. Decisions regarding whether is appropriate to apply the Council's discretion, with regard to PHVs with manufacturer fitted rear glass that is darker than that allowing 70% of the light to be transmitted, has been determined by 2 senior officers. The consensus view of these officers is that you can still clearly see passengers in the rear of a PHV with glass that allows as little as 40% of the light to be transmitted. The ability to clearly see passengers below this limit reduces rapidly although is it still possible to see whether there are passengers in a vehicle fitted with much darker glass. Further research has established that vehicles fitted with darkened glass appear to afford sufficient visibility at night to be able to establish whether a vehicle is carrying passengers and indeed the number of passengers in a vehicle.
17. Recently, an established private hire operator applied to licence a 2013 multi-purpose vehicle ideally suited to meet the needs of a wide range of private hire customers. The rear glass did not meet the Council's specification for light transmission and, due to this model only being manufactured with darkened glass; the windows could not be replaced as they are not manufactured without the tint. The only option was to refuse to grant the licence with no alternate solution available to the applicant.
18. Every council can determine the criteria by which it can establish if a vehicle is suitable to be licensed as a private hire vehicle. The Department for Transport (DfT) Taxi and Private Hire Licensing - Best Practice Guidance, issued in 2010, makes the following reference to tinted windows:

Tinted Windows

The minimum light transmission for glass in front of, and to the side of, the driver is 70%. Vehicles may be manufactured with glass that is darker than this fitted to windows rearward of the driver, especially in estate and people carrier style vehicles. When licensing vehicles, authorities should be mindful of this as well as the large costs and inconvenience associated with changing glass that conforms to both Type Approval and Construction and Use Regulations. (*para 30 DfT Taxi and Private Hire Licensing - Best Practice Guidance*)

19. Whilst this guidance was considered when the Council adopted its current window tint Policy in 2012, at that time it was considered that by incorporating the discretion to allow vehicles manufactured with darker glass, with the caveat that it was still considered possible to clearly see

in, would ensure that a wide range of vehicles could still be licensed. However, almost 5 years on, the increased prevalence of darkened glass, fitted as standard to new cars, now has the potential to limit the choice of suitable vehicles to the extent that licence holders could be driven to licence older vehicles, vehicles of an ever decreasing quality and specification or even look to become licensed by another local council where dark tints are permitted.

20. Surveys of the neighbouring councils and a selection of councils situated further afield were undertaken in October 2016 to benchmark their respective licensing policy regarding tinted windows in private hire vehicles. The results are included in the table below.

Table 1:

Comparison of licensing policy regarding tinted rear windows fitted to private hire vehicles	
Barnsley	No restrictions if manufacturers specification
Rotherham	No restrictions if manufacturers specification
Sheffield	Rear windows must allow min 70% transmission of light
North Lincolnshire	No restrictions if manufacturers specification
Medway	Rear windows must allow min 40% transmission of light
Dudley	Rear windows must allow min 40% transmission of light
Leeds	Rear windows must allow min 70% transmission of light
South Tyneside	Rear windows must allow min 35% transmission of light
Birmingham	No restrictions if manufacturers specification
Transport for London*	No restrictions if manufacturers specification

21. It is immediately evident that half of the 4 South Yorkshire licensing authorities will already licence PHVs with manufacturer fitted dark tinted rear windows.
22. Of particular significance is the policy adopted by Transport for London where manufacturer fitted tinted rear windows are permitted. According to the Department for Transport Taxi and Private Hire Vehicle Statistics: England 2015, there are 166,000 private hire vehicles in England, of these 63,000 are licensed by Transport for London (TfL)*. Almost 40% of the PHVs licensed in England are licensed by TfL where there are no restrictions on tinted windows over and above the manufacturers specification i.e. there is no prohibition on the use of glass with any degree of tint for windows rear of the driver.
23. Conclusions:
 - It is acknowledged that the Department for Transport – Taxi and

Private Hire: Best Practice Guidance, published in March 2010, the DfT advises licensing authorities to be mindful of the cost of replacing glass when setting its policy.

- Whilst statistical information is not available about the number of PHVs licensed in England that are fitted with tinted rear windows, based on our simple survey it is possible to draw the following conclusion. Based solely on the fact that every PHV licensed by Transport for London and, our second largest city, Birmingham is permitted to have tinted rear windows, it is reasonable to state that for the majority of PHVs licensed in England there is no prohibition on the use of manufacturer fitted glass, with any degree of tint, for windows rear of the driver.
- Vehicle manufacturers are more frequently installing anti-glare / tinted glass as standard to their standard production models for a variety of reasons including driver / passenger comfort and added security. In some cases vehicles are only manufactured with tinted glass and no alternate glass option is available thereby removing the option for the glass to be changed.

OPTIONS CONSIDERED AND REASON FOR RECOMMENDED OPTION

24. Option 1: - Retain existing policy.
25. Option 2: - Amend the policy in respect of PHVs to permit manufacturer fitted glass, with any degree of tint, for windows rear of the driver that also meets the relevant Construction and Use Regulations and / or Road Traffic Act requirements.
26. Having a Policy that is clear and up to date in terms of the law and best practice is the keystone to an effective taxi licensing regime. For example, it is clearly important that somebody using a PHV should be confident that the vehicle is suitable and safe. But on the other hand, if the supply of PHVs has been unduly constrained by onerous licensing requirements, then that person's safety might be put at risk by having to wait on late-night streets for a PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire. It has already been established that hackney carriages licensed elsewhere can legitimately operate on a private hire basis in Doncaster and we are unable to effectively monitor them. If prospective licence holders find it difficult to licence their vehicle of choice and/or are unable to find suitable vehicles that meet Doncaster's specification then they may opt to become licensed elsewhere.
27. The private hire vehicle specifications agreed by the Council in 2012 were fit for purpose at that time. The issues identified in this report regarding the proliferation of vehicles being manufactured with dark tinted windows as standard is impacting on the private hire trade as the prospective licence holder now has to choose between a diminishing number of lower specification vehicles with no dark tinted windows and a higher specification vehicle, knowing it will cost significantly more to

change the glass and compounded by the risk that no alternate glass option may be available. i.e. Even if the licence holder is willing to go to the expense of changing the glass this cannot be achieved if alternate (clearer) glass is not manufactured.

28. Unlike hackney carriage journeys, all private hire journeys are pre-booked and full records are kept of the journey including vehicle, driver and passengers. The perceived risk to passengers and drivers is, therefore, significantly less than it would be in a hackney carriage.
29. By not permitting after-market (stick-on film type) window tints no one is significantly prejudiced as anyone intending to licence a vehicle which already has them fitted merely has to remove the film to permit it to be licensed. Anyone that has a legitimate need for rear tinted glass will be encouraged to purchase a newer, higher quality and inherently safer vehicle, to the advantage of the passengers.
30. An increasing amount of officer and licence holder time is taken up making subjective decisions on vehicles with tinted glass to establish if it is eligible for the Council's existing discretion policy. By clarifying the Policy and permitting all manufacturer fitted rear tints, resources will be more effectively deployed.
31. It is a genuine concern that in the near future it will become increasingly difficult, and in some cases impossible, for licence holders to source vehicles or un-tinted glass to replace tinted window in new vehicles.
32. For these reasons and the conclusions detailed in paragraph 23, in particular the fact that for the majority of PHVs licensed in England there is no prohibition on the use of manufacturer fitted glass, with any degree of tint, for windows rear of the driver, option 2 is considered to be the most appropriate option.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

33.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>

	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>The Policy ensures that licensing decisions can be made fairly and in a timely manner with the overriding aim of protecting the public.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>None</p>
	<p>Council services are modern and value for money.</p>	<p>Functions are delegated in the interests of speed, efficiency and cost effectiveness wherever possible.</p>
	<p>Working with our partners we will provide strong leadership and governance</p>	<p>None</p>

RISKS AND ASSUMPTIONS

34. It is accepted good practice that a Licensing Authority adopts a statement of licensing policy in respect of taxi licensing. By not having a Policy decisions of the Licensing Authority are more open to challenge.

LEGAL IMPLICATIONS

35. Private hire licensing is a function of the Council. The statutory powers are contained in the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976.
36. Every local authority can determine the criteria by which it can establish if a vehicle is suitable to be licensed as a private hire vehicle.

FINANCIAL IMPLICATIONS

37. There are no significant financial implications with this report.

HUMAN RESOURCES IMPLICATIONS

38. Not applicable

TECHNOLOGY IMPLICATIONS

39. Not applicable

EQUALITY IMPLICATIONS

40. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

CONSULTATION

41. Benchmarking against other council licensing policies and discussion with the manager responsible for the Council's taxi fitness tests.

BACKGROUND PAPERS

42. Doncaster Council's Hackney Carriage and Private Hire Licensing Policy.

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