

Date: 16 November 2010

To: Members of the Licensing (Regulatory) Committee

Mr. K. Nichols (Chairman)	Mr. P. Hall
Mr. C. G. Joyce (Vice-Chairman)	Mr. R. Mayne
Mr. P. R. Batty	Mr. K. Morrell
Mr. J. C. Bown	Mr. O. O'Shea
Mr. S. L. Bray	Mr. A.J. Smith
Mr. M. B. Cartwright	Mrs. S. Sprason
Mrs. S. Francks	Mr. B.E. Sutton
Mr. D. M Gould	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor

There will be a meeting of the **LICENSING (REGULATORY) COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **WEDNESDAY 24 NOVEMBER 2010 at 6:30 pm** and your attendance is required.

PLEASE NOTE THAT IMMEDIATELY FOLLOWING THIS MEETING THERE WILL BE A MEETING OF THE LICENSING COMMITTEE.

The agenda for the meeting is set out overleaf.

Yours sincerely

Pat Pitt (Mrs.)
Corporate Governance Officer

LICENSING (REGULATORY) COMMITTEE

25 NOVEMBER 2009

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED 2. MINUTES

To confirm the minutes of the meeting held on 25 November 2009 - copy attached marked LR3.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the Agenda.**

RESOLVED 5. EXECUTIVE PRIVATE HIRE PLATE EXEMPTION

Report of Deputy Chief Executive (Community Direction) attached marked LR4. (Pages 1-6)

6. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

To: All Members of the **Licensing (Regulatory) Committee** with a copy to all other Members of the Council.

NOTE: AGENDA ITEMS AGAINST WHICH THE WORD "RESOLVED" APPEARS ARE MATTERS WHICH ARE DELEGATED TO THE COMMITTEE FOR A DECISION. OTHER MATTERS ON THIS AGENDA WILL BE THE SUBJECT OF RECOMMENDATIONS TO COUNCIL.

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
LICENSING (REGULATORY) COMMITTEE
25 NOVEMBER 2009 AT 6.48 PM

PRESENT: Mrs. S. Francks – Chairman
Mr C.J. Joyce – Vice Chairman

Mr. P.R. Batty, Mr. J.C. Bown, Mr. M.B. Cartwright,
Mr. D.M. Gould, Mrs. A. Hall, Mr. P.A.S. Hall, Mr. R. Mayne, Mr.
K. Morrell, Mr L.J.P. O'Shea, Mrs S. Sprason, Mr. B. E. Sutton
and Ms. B. M. Witherford

Officers in attendance: Mr. Mark Brymer, Mr. S. Merry, Mrs. P.I.
Pitt and Mr. M. Rice

289 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Messrs. S.L. Bray,
K. Nichols and A. J Smith and the following substitutions were authorised in
accordance with Council Procedure Rule 4.3:-

Mrs. Hall for Mr. Smith
Ms. Witherford for Mr. Bray

290 **MINUTES (LR1)**

On the motion of Mr. Cartwright, seconded by Mr. Bown, it was

RESOLVED - the minutes of the meeting held on 18 March 2009 be
confirmed and signed by the Chairman.

291 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

292 **STREET TRADING CONSENT POLICY (LR2)**

In order to comply with the EU Service Directive governing cross-
border trade in services, a revised Policy was presented to the Committee for
consideration. Such Policy, if approved, would provide a potential applicant
with greater guidance and would ensure greater Council control over the
types of sellers permitted and the activities associated with their business.

Currently 2 businesses within Hinckley were trading with consent.
Members were unanimous that a robust Policy, properly regulated, was
needed and were firmly in favour of the submission of a Basic Criminal
Records Certificate. A suggestion was made that Section 12.7 of the
proposed Policy be extended to include consulting the ambulance service
and it was agreed that this, together with appropriate wording relating to a
Criminal Records Certificate or equivalent be left to officers to look into.

On the motion of Mr. Mayne, seconded by Mr. O'Shea it was RESOLVED - subject to officers being satisfied as to the wording the revised Street Trading Consent Policy be endorsed and submitted to the Executive for approval.

(The meeting closed at 7.16 pm)

LICENSING REGULATORY COMMITTEE – 24 NOVEMBER 2010

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

RE: EXECUTIVE PRIVATE HIRE PLATE EXEMPTION

1. PURPOSE OF REPORT

- 1.1 The Licensing Regulatory Committee (The Committee) is asked to consider amending the Hackney Carriage and Private Hire Licensing Policy to grant exemptions from having to display private hire vehicle plates for Executive vehicles.

2. RECOMMENDATION

- 2.1 The Committee is requested to determine one of the following options:
- (a) Continue with the current policy of not allowing exemptions from displaying Private Hire Vehicle licence plates (PHV); or
 - (b) To change the existing policy in accordance with Appendix A, and consult with the Private Hire Trade to amend the Hackney Carriage & Private Hire Licensing Policy;
 - (c) To delegate the power to determine applications for 'exempt plating', to the Licensing Officer. This delegation shall be subject to the provision that the Licensing Officer shall have the discretion to refer such applications to the Licensing Sub-Committee for determination.

3. BACKGROUND TO THE REPORT

- 3.1 Following extensive consultation in 2008 the Council adopted the Hackney Carriage and Private Hire Licensing Policy on 29 April 2009.
- 3.2 Hinckley and Bosworth Borough Council has responsibility for licensing taxi and private hire vehicles, drivers and operators within the borough of Hinckley and Bosworth. Prior to the adoption of the Licensing Policy it had traditionally exercised this responsibility through a number of different procedures that have been developed over a significant number of years.
- 3.3 Many of the previous procedures had, become rather historic and didn't adequately assist the trade or the public or indeed truly reflect the situation today in respect of these trades. Written policies did not exist in respect of some important aspects of the service.
- 3.4 Prior to the adoption of the policy a number of exemption notices have previously been granted by the Council to chauffeur driven private hire vehicles based on the grounds of the type of vehicle and service provided.

- 3.5 The review process in 2008 resulted in the current licensing policy that sets out the policies and procedures that the Council now applies in exercising this licensing function. With regards to notices of exemption the council's policy states:-

NOTICES OF EXEMPTION

Previously the Council at its discretion could issue a Notice of Exemption under section 75 (3) of the Local Government (Miscellaneous Provisions) Act 1976. This basically means that where the Council has issued a private hire vehicle licence to a private hire operator under section 48 LGMPA 1976, that the Council at its discretion could grant a Notice in writing exempting them from displaying a plate under s 48, 6 (a) and also the driver from displaying a badge under s 54 (a) LGMPA 1976.

From the implementation of this policy all previously issued Notices of Exemption for private hire vehicles will be able to run the course of the current licence. However once the licence is renewed Private Hire operators will be required to display a Private Hire vehicle licence plate on the vehicle.

- 3.6 The Local Government (Miscellaneous Provisions) Act 1976 requires that identification (licence) plates be displayed on licensed private hire vehicles, and that licensed drivers of those vehicles wear a driver's badge.
- 3.7 For vehicles used by the "public," display of identification plates on a licensed vehicle and of the drivers badge is important in terms of public safety and reassurance. They indicate to the travelling public and to enforcement authorities that prior to being licensed both the vehicle and the driver have been subjected to checks to ensure their (the publics) safety.
- 3.8 Until January 2008, chauffeurs and vehicles exclusively hired for more than seven days by a single client were exempted from licensing requirements (S75 of the Act). Chauffeurs are now included in the ordinary "private hire" licensing requirements and must secure Private Hire licences for their cars and drivers – and comply with all of the conditions and legal requirements including display of vehicle licence plates and driver badges.
- 3.9 However there are occasions when the requirement to display an external identification plate may have the opposite effect in terms of customer safety and could have commercial implications for the operating business. The display of Local Authority licence plates externally may also deter some corporate customers from using the service.
- 3.10 The legislation does give the Council discretion to exempt vehicles from the need to display the Councils approved identification plate and, where that exemption applies, the requirement for the driver to wear a private hire drivers badge.
- 3.11 From the adoption of the policy in April 2009 once any existing exemptions had run their course Private Hire Operators were given the choice between the standard yellow Private Hire Plate and the small discrete black Executive Hire Plate.

- 3.12 Mr Martin Bishop proprietor of MGB Professional driving services has written into the council asking for exemptions from having to display a private hire vehicle plate on his corporate vehicles.
- 3.13 The Committee should know that there is no “right” to plate exemption, nor is there any right of appeal against the Councils decision not to exercise its discretion and allow an exemption.
- 3.14 In creating a policy the Council does not seek to provide a definitive list of vehicles it considers to be suitable (subject to use) for exemption from the requirement to display external identification plates.
- 3.15 The policy outlines the type of operational business need and business requirement and describes the minimum standard of vehicle comfort and type appropriate before we will consider an application for plate exemption. The policy should be read in conjunction with our existing policy relating to private hire vehicles and establishes additional criteria that the Council will take into account when determining an application for a private hire vehicle to be exempt from displaying external identification plates.

4.0 Executive Summary of Main Proposals

- 4.1 The officers are seeking generally to ensure that plate exemption should not be an automatic procedure and that applicants produce suitable evidence of their reasons for requesting an exemption. It is important that full details of the work should be submitted to the Council with any application for exemption, before the Council is asked to consider the details.

Considerations for an Exemption

- 4.2 Councils that consider exemptions do so only on an individual vehicle basis and not a fleet basis and take into account some or all of the following factors:
- The make, model and registration number of the vehicle;
 - The type of work undertaken by the private hire vehicle;
 - How the work differs significantly from that of regular private hire work;
 - The type of customer;
 - The number of journeys that are not regular private hire work;
 - The length of each journey that is not regular private hire work;
 - The number of non regular private hire journeys carried out by the vehicle;
 - The number of regular private hire journeys carried out by the vehicle;
 - Any relevant history of the applicant in respect of breaches of condition or legislation;
 - The vehicle must be classed as an Executive Vehicle by the manufacturer;
 - The cost of a vehicle is not sufficient reason alone for requesting an exemption but vehicles must be of a high standard;

Decisions on Applications for an Exemption

- 4.3 Generally, the councils that consider an exemption decide on one or more of the following actions/requirements:
- (a) Refuse to grant the exemption in which case the vehicle must display the council's standard plate and door stickers (if applicable) at all times when being used for hire or reward; or
 - (b) Agree to exempt the vehicle entirely from displaying any licence plates. The council will issue a written notice which must be carried in the vehicle at all times when being used for hire or reward. This option is available by virtue of section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976; or
 - (c) Agree to exempt the vehicle from displaying the council's standard plate and door stickers (if applicable) but require the vehicle to;
 - (d) Fix the normal outside plate inside the boot compartment so as to be visible when the boot is opened for luggage; or
 - (e) Display a smaller, less conspicuous plate, on the rear of the vehicle (often referred to as an executive plate); or
 - (f) Display a small disc or id style card in the windscreen near to the vehicle duty licence; and in all cases.
 - (g) Carry in the vehicle at all times a written notice of exemption issued by the council when the vehicle is being used for hire or reward.
 - (h) The requirement to display a driver's badge licence is dispensed with if an exemption is granted
 - (i) The display of 'No Smoking' stickers inside the vehicle is still a condition of any exemption granted

5. FINANCIAL IMPLICATIONS [CB]

- 5.1 None arising directly from this report.

6. LEGAL IMPLICATIONS [MR]

- 6.1 Section 48(6) (a) of the Local Government (Miscellaneous Provisions) Act 1976 requires the proprietor of a private hire vehicle to display the licence identification plate issued by the Council in the manner required by the Council. The Council's conditions state that at all times while the vehicle is being used as a private hire vehicle there shall be securely fixed to the rear of the vehicle the appropriate vehicle licence plate supplied by the Council'.

Section 54(2) (a) of the Act requires the driver of a private hire vehicle to wear the badge issued by the Council in such a position and manner as to be plainly and distinctly visible.

Section 75(3) Local Government (Miscellaneous Provisions) Act 1976 allows local authorities to grant to a licensed private hire proprietor an exemption from the requirement to display upon the licensed vehicle the private hire vehicle licence identification plate issued by the Council. Section 75(3) also provides that the Licensing Authority may grant to a licensed private hire driver an exemption from the requirement to wear/display the private hire driver's identification badge issued by the Council.

7. **CORPORATE PLAN IMPLICATIONS [MB]**

7.1 Objective three – A Safer and Healthier Borough.

8. **CONSULTATION [MB]**

8.1 If the Licensing Regulatory Committee decide to amend the existing policy then the existing Private Hire Trade will be consulted.

Although the draft document is aimed mainly at the private hire trade, the Council welcome views from members of the public, particularly those that regularly use these services, interested parties and regulatory agencies.

At the end of the consultation period, all of the responses will be collated and included in a Summary of Responses paper, which the Council will publish on the website and make freely available. A decision on the policies which it is proposing to adopt will then be made by the Council's Licensing Regulatory Committee. There are a number of groups and organisations that have an interest in the provision of taxi and PHV services, including the trade itself, residents and enforcers, all of whom have views and concerns that require consideration. In drawing up this policy, the Authority will, therefore, as part of the review process, be consulting with the following:

HBBC Private Hire Operators
Neighbouring Authorities
HBBC Community Safety Unit
Leicestershire Constabulary
The National Private Hire Association

9. **RISK IMPLICATIONS**

9.1 It is the Council's policy to proactively identify and manage significant risks, which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the risks associated with this decision have been identified, assessed and that controls are in place to manage them effectively.

9.3 The significant risks associated with this report were identified from the assessment as follows.

Management of Significant Risks		
Risk Description	Mitigating actions	Owner
Reputation Legal	In adopting the revised policy the Council is demonstrating its flexibility and responsiveness to changing needs/requirements.	Mark Brymer

10. **RURAL IMPLICATIONS**

10.1 The policy will have equal impact on all areas of the Borough.

11. **CORPORATE IMPLICATIONS**

11.1 By submitting this report, the report author has taken the following into account:

Community Safety Implications - The provision of an identifying licence plate on the rear of a vehicle and also the driver's badge (which the driver must wear) are an assurance for hirers that they are using a safe and properly licensed vehicle and not a bogus one.

An exemption from the requirement to display the licence plate could have community safety implications if the vehicle was then used for more routine and day-to-day private hire work. If an exemption is approved, the Private Hire Licence plate must be carried in the vehicle, together with the Council's letter of approval of exemption, but these will not be evident or immediately obvious to the hirer.

- Environmental Implications [JN] - None
- ICT Implications - None
- Asset Management Implications - None
- Human Resources Implications - None

Background Papers: Hinckley & Bosworth Borough Council Taxi and Private Hire
Licensing Policy
Local Government (Miscellaneous Provisions) Act 1976

Contact Officer: Mark Brymer - Principal Licensing Officer ext 5645

Executive Member: Mr. D. Cope

Executive Hire

Some private hire businesses provide what they refer to as 'Executive Hire Cars'. Although clearly private hire vehicles, they are often used by companies and firms to transport visitors, senior members of staff etc, and are perceived as being more akin to a chauffeur driven vehicle than a private hire vehicle.

The display of identification plates and badges is important in terms of protecting the public and the taxi and private hire trade. However, it is recognised that there are limited occasions, such as the operation of chauffeured, executive and limousine vehicles, where identification of the vehicle may have a negative effect both in terms of customer safety and commercial considerations.

Private hire businesses providing what they refer to as Executive Hire may wish to apply for exemption from the requirements to display private hire plates because of the nature of their vehicle(s) and business.

This document sets out our policy concerning the Executive Hire exemption referred to above. It is designed to help you to decide whether to make an application for exemption and to guide (but not bind) Officers or the Licensing Committee when they determine your application.

Exempt vehicles are subject to the same criteria as all licensed private hire vehicles in that they can only be driven by a private hire driver who is licensed by the same authority from which the vehicle licence and private hire operator's licence were issued.

Private Hire Work Which May Be Deemed To Be Executive Hire

Examples of the type of work which we consider to be Executive Hire are as follows:

1. Corporate bookings to transport employees and clients on business related journeys.
2. Other journeys where the client specifically requires a vehicle without any private hire plates or signage on it at the time of booking.

The fact that the hirer pays a higher fee for hiring what may be referred to as an Executive Hire Car (compared to what the hirer may pay for a non-exempt private hire vehicle displaying private hire plates and signage) may be indicative (but not conclusive) that the nature of the business is Executive Hire and that the exemption may be appropriate.

The current Hackney Carriage Table of Fares can be used as a guideline to standard pricing, although it is accepted that this is in no way binding upon a private hire vehicle hiring.

Types of Vehicles Which May Be Granted an Exemption

The average person may envisage an executive to travel in a prestige vehicle being of materially higher specification than a standard vehicle.

Examples of vehicle types perceived to be prestige from the sample of people we asked were [Mercedes, BMW, Audi, Jaguar and Lexus]. However, we do not wish to form a prescriptive list of acceptable vehicles because this may be subjective and also require frequent update. Conversely, we do not wish to restrict the types of vehicles which may be deemed to hold prestige status.

Instead, we set out a range of general criteria that leaves it open to the private hire vehicle trade to put forward vehicles of its own choice which can be shown to meet the criteria. This will enable flexibility if the circumstances merit it.

Relevant considerations as to whether a vehicle is an Executive Hire Car include but are not limited to cost, reputation, specification, appearance, perception and superior comfort levels.

In addition, the following may be indicative (but not conclusive) that a vehicle is an Executive Hire Car and that the exemption may be appropriate:

1. Engine size of 2000cc or greater.
2. Each seat is of adequate dimension and permits direct access into and out of the side doors of the vehicle without the need to move, remove or fold down any seat. Vehicle types which are capable of seating more than four passengers will be considered for the exemption but will only be licensed for, in the opinion of the authority, the number of passengers who can travel comfortably. This consideration relates to the level of comfort that the average person may believe an Executive Hire Car should afford.
3. The original list price of any vehicle is a minimum of £28,000 in spite of its age on application. This minimum price will be exclusive of any extras added at the time of purchase. Evidence of the original new list value will be obtained at the time of application. Officers must be satisfied the evidence provided verifies the original list value. (This figure to be revised when the policy is periodically reviewed and in any case no later than five yearly intervals).
4. The vehicle has a minimum specification of air conditioning/climate control to front and rear seats, all electric windows, central locking and suitable front and rear headrests for each passenger.
5. Vehicles will need to fulfil the current age requirements for private hire vehicles.

Executive Hire Exemption Policy

Private Hire Vehicle Owners who undertake only Executive Hiring and wish their vehicles to be exempt from the need to display a licence plate and identifying signage need to apply for exemption which would be granted by way of an exemption certificate.

Conditions will be attached to the licence.

1. Only vehicles which are used solely for Executive Hire may be granted exemption. The vehicle will need to be used 100% for Executive Hiring.
2. Vehicles which are granted exemption from the need to display any recognisable licensed signage, may not undertake any 'normal' (non-executive hire) private hire work where the absence of identification features might cause problems.
3. The granting of an exemption will mean that the vehicle and the driver are exempt from the requirement to display identifying signage on the vehicle and the driver will not have to wear his drivers' badge.
4. All other Private Hire conditions will apply to both the vehicle and the driver whilst he is undertaking Executive Hire.
5. Private Hire Vehicles which are granted Executive Hire exemption will be subject to the application of five additional conditions as detailed below.
6. An exemption certificate will be granted to those vehicles which the Committee are satisfied meet the criteria for exemption and must be carried in the vehicle at all times.

The following are further conditions which will be applied to a private hire vehicle licence when an Executive Hire Exemption Certificate is granted.

Executive Hire Additional Conditions

1. The External licence plate must be affixed inside the boot-lid.
2. The Internal licence plate must be affixed inside the glove-box.
3. When the booking is made, the operator must provide the hirer with the registration number of the vehicle and the name of the driver.
4. Any time that the vehicle is found to be used outside of the permissions granted for the exemption from displaying plates, will result in the permanent removal of the exemption for the vehicle.
5. Saloon and hatchback vehicles to be licensed for 4 passengers only plus the driver.