

Title of Report:	Transfer of Hackney Carriage Driver Licences
Report to be considered by:	Licensing
Date of Meeting:	13th December 2011
Forward Plan Ref:	

Purpose of Report: To advise Members of a request from the Taxi Trade Associations to review a decision taken on 26th April 2005 in respect of hackney carriage vehicle transfers

Recommended Action: To reaffirm the Council's intention to apply the Family Exemption condition approved in April 2005

Reason for decision to be taken: Request from the Taxi Trade

Other options considered: None

Key background documentation: Licensing Committee Reports 26th April 2005 and 14th March 2005. Minutes from the meeting 26 April 2005.

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic downturn** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce crime and the fear of crime**

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635 519209
E-mail Address:	bleahy@westberks.gov.uk

Implications

Policy: The Councils policy is to consider any reasonable request from the trade. The current policy in respect of the transfer of licences is attached at Appendix B.

Financial: None

Personnel: None

Legal/Procurement: None

Property: None

Risk Management: None

Equalities Impact Assessment: EIA completed

Corporate Board's Recommendation: To be completed after the Corporate Board meeting.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	
Report is to note only	<input type="checkbox"/>	

Executive Summary

1. Introduction

- 1.1 This report provides the background to the Council's decision in 2005 to adopt a policy for the transfer of hackney carriages.

2. Proposals

- 2.1 The taxi trade have requested that Members consider a request to change this policy and allow the free transfer of hackney carriage vehicles complete with licence and plate.
- 2.2 Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 provides for the transfer of a hackney carriage vehicle from one person to another by giving notice, in writing, to the Council within 14 days of the transfer.
- 2.3 Section 47 of the same Act provides for the attachment of conditions to a hackney carriage vehicle licence upon grant. It therefore follows that when a licence is transferred, a new licence is granted with conditions as deemed necessary by the Council.

3. Conclusion

- 3.1 The Family Exemption condition was and is legally applied within the Council's Standard Conditions.

Executive Report

1. Introduction

- 1.1 At a meeting of the Licensing Committee held on the 14th March 2005 a proposal to condition the transfer of hackney carriages (Taxis) was discussed. The suggested condition was worded as follows;

No taxi proprietor may enter into arrangements with another person to share an interest in a taxi plate in circumstances intended to avoid any condition providing facilities for the disabled.

- 1.2 The wording of this condition was deemed to lack precision when considered by the Council's legal advisor and new conditions were proposed at a Special Licensing Committee held on the 26th April 2005, preventing any new licence sharing arrangements except by members of a family. This became the Family Exemption. These conditions, the exemption and the report are attached as Appendix B. Members resolved at this meeting that the following condition be attached to all Hackney Carriage Proprietor's (Vehicle) licences;

If a taxi proprietor transfers in whole or in part his interest in a hackney carriage proprietor's licence, that transfer shall, subject to the family exemption, be treated as a grant of a new licence for the purpose of the applicability of the disabled access condition. Therefore, the disabled access condition requiring the provision of a fully wheelchair accessible vehicle will be applied to that licence with immediate effect from the date that the licence is transferred.

- 1.3 At that time, the Council had not imposed a limit on the number of taxi vehicle licences that it would issue.
- 1.4 At the Licensing Committee meeting held on the 29th June 2011, Members decided to re-impose a maximum limit to the number of taxi vehicle licences that the Council could issue; this limit was set at 220. The current number of HC (Taxi) vehicle licences issued is currently 201 with 2 applications pending.

2. The Trade Position

- 2.1 This request from the trade seeks to overturn the 2005 decision and allow for free market trade in the transfer of taxis, without the family exemption restriction applying.
- 2.2 This would mean that any protected licence, either, a vehicle licence (usually saloon cars) issued prior to 1st April 2001 and any vehicle licensed from 1st April 2001 which had previously been subject to the swivel seat condition (usually saloon cars), would have the right to transfer their vehicle under section 49 without having to comply with the Family Exemption condition.
- 2.3 As can be seen from the Committee papers from the 2005 meetings, the condition was imposed to ensure that a steady growth in wheelchair accessible taxis would be seen thus providing greater accessibility to wheelchair users.

- 2.4 The minutes from the 2005 meeting show that, at that time, the wheelchair accessible fleet stood at 4% of the total number of taxis. Today that figure stands at 42%. Swivel seated vehicles make up 17% of the total number of licensed vehicles thus leaving 41% as protected taxis. The total disabled access fleet is therefore 59%.

3. The Council's Position

- 3.1 The Council's position in 2005 was to ensure that there would be a significant increase, over time, in the accessibility of taxis for wheelchair users and other disabled, elderly and infirm persons. To this end, the Family Exemption was adopted.
- 3.2 As can be seen from the figures quoted above, the percentage of wheelchair accessible vehicles has risen from 4% out of a total of approximately 189 vehicles in 2005, to 42% out of a total of 203 vehicles in 2011. This would indicate that the policy has worked.
- 3.3 If the Council were to rescind the Family Exemption and allow the unrestricted transfer of protected vehicles, and the cap was reached at 220, the net result would be that the total number of wheelchair accessible vehicles available would be 46%. This would equate to an increase over the current 2011 total of 42% by 4%.

4. Consequences of Rescinding the Exemption

- 4.1 By rescinding the exemption, the Council would in effect be placing a value on the licence and plate issued to that vehicle. If a protected vehicle were transferred, the licence plate would have a financial value to the vendor where the purchaser wished to have a saloon type car rather than a wheelchair accessible vehicle. This would effectively mean that the Council's property would enhance the value of a protected licence holders business.
- 4.2 This would seriously disadvantage non protected vehicle licence holders wishing to transfer their licences, due to there being 17 licences still freely available, thus adding no value to the transferred licence plate.
- 4.3 When and if the cap of 220 is reached, all taxi vehicle licences would have a commercial value where new persons wish to enter the trade by purchasing an existing licensed vehicle.
- 4.4 Members may wish to take note of the above fact for deliberation at a future meeting regardless of whether the trade's request is granted or not.

5. Law Commission Review of Regulation of Taxi and PHV's

- 5.1 The Government has asked the Law Commission to undertake a full and complete review and reform of UK law relating to taxis and private hire vehicles in England and Wales.

5.2 The Commission will, in their words, be starting from scratch in carrying out this exhaustive review and will look at all aspects of current regulation before going out to extensive consultation around April 2012. Consultation will last for 3 months and will culminate in a draft bill and report to government by November 2013. The Government propose to introduce legislation before the end of the current Parliament.

6. Recommendations

6.1 With the announcement that the Law Commission consultation will extend to all interested parties, including the trade, the public, business corporations, regulators, etc, officers recommend that the Family Exemption should remain as a condition, unchanged, until at least, draft legislation has been published.

Appendices

Appendix A - Equalities Impact Assessment

Appendix B - Report - Taxis - Transfers of Vehicle Licence dated 26 April 2005

Appendix C - Minutes of meeting held on 26 April 2005

Appendix D – Reports from Meeting 14 March 2005

Consultees

Local Stakeholders: Hackney Carriage Vehicle Proprietors

Officers Consulted: Sarah Clark, Team Leader Legal and Electoral Services

Trade Union: None

APPENDIX A

Equality Impact Assessment – Stage One

Name of item being assessed:	Transfer of Hackney Carriage Vehicle Licences
Version and release date of item (if applicable):	V 1.1
Owner of item being assessed:	Steve Broughton
Name of assessor:	Brian Leahy
Date of assessment:	

1. What are the main aims of the item? To advise Members of a request from the taxi trade associations to remove conditions from taxi vehicle licences. To make a recommendation to Members.

2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation)

Group Affected	What might be the effect?	Information to support this.
Taxi vehicle licence holders	To require all protected taxi vehicle licences to be able to be transferred only within family groups as determined by licence conditions.	Licensing Committee reports 14 March 2005 26 April 2005 & 13 December 2011.

Further comments relating to the item:

3. Result (please tick by clicking on relevant box)

<input checked="" type="checkbox"/>	High Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	Medium Relevance - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	Low Relevance - This needs to undergo a Stage 2 Equality Impact Assessment

<input type="checkbox"/>	No Relevance - This does not need to undergo a Stage 2 Equality Impact Assessment
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For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

4. Identify next steps as appropriate:	
Stage Two required	Yes
Owner of Stage Two assessment:	Steve Broughton
Timescale for Stage Two assessment:	By 13th December 2011
Stage Two not required:	

Name: Brian Leahy

Date: 2nd December 2011