

Title of Report: **Taxis – Transfers of Vehicle Licences**

Item 3

Report to be considered by: Licensing Committee

Purpose of Report:

To introduce measures to prevent the avoidance of conditions intended to provide access for the disabled.

Recommended Action:

That Committee approves the conditions at Paragraph 3 of the Report in relation to licensed hackney carriages:

List of other options considered:

None

Key background documentation:
(bulleted list format)

Agenda for Licensing Committee of 14th March 2005.

Contact Officer Details

Name:	John Priest
Job Title:	Environmental Health & Licensing Manager
Tel. No.:	01635 519167
E-mail Address:	jpriest@westberks.gov.uk

1. Background

1.1 This report refers to hackney carriages, which for readability here are called taxis. It does not include private hire vehicles which are subject to different rules.

1.2 In September 2004, this committee considered a detailed report suggesting various changes in the licensing of taxis to improve access by the infirm, elderly and the disabled. Committee resolved to suspend issuing further licences and to set up a member working party. That Working Party reported back at the March 2005 meeting of the Committee, its recommendations were accepted, and committee resolved accordingly. However in doing so no account was taken of a recommendation made at the earlier September 2004 meeting. This addressed the need to introduce a condition designed to prevent proprietors entering into arrangements to share an interest in a licence intended to avoid conditions aimed at improving access for the disabled.

1.3 At the meeting of this Committee on the 14th March 2005, in summary, it was resolved that the position regarding the application of disabled access conditions would be as follows:

1. **Licences issued prior to 1st April 2001.**
These licences would continue to operate free of any disabled access conditions.
2. **Licences issued from 1st April 2001 to date.**
These licences had previously been subject to the SAV conditions imposed as a result of the decision of the Licensing Committee in June 2000.

The licences within this category can be sub-divided into two groups:-

a) Those who complied with the old SAV condition by either providing a wheelchair accessible vehicle or a swivel seat.

Proprietors who complied with the SAV condition will be allowed to continue to operate under that condition and will not be affected by the new disabled access conditions.

b) Those who did not comply with the SAV condition and either appealed to the Courts against the condition or did not comply pending the outcome of the appeals brought by a number of proprietors.

Any proprietor falling within this category must supply a wheelchair accessible vehicle by 1st September 2006.

3. **New Licences**
All new licences in respect of hackney carriage vehicles will contain a condition requiring that the vehicle be fully wheelchair accessible with immediate effect.

1.4 It can therefore be seen that taxis first licensed before 1 April 2001 need not provide facilities for disabled passengers such as being wheel chair accessible. Licences issued subject to the SAV condition will also not be required to comply immediately with the new disabled access condition. It has been the experience in the past that exempt licences could change hands in such a way as to avoid compliance with new conditions. Members clearly wished to avoid this happening in respect of the new disabled access conditions.

2. Options

2.1 When originally discussed by members of this Committee there was general support for the suggested wording:

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.

2.2 Subsequent legal advice is that this condition may lack precision and is too subjective. Instead it is now proposed that a condition is applied preventing any new licence sharing arrangements except by members of a family.

2.3 Given that the restrictions on the number of taxi licences was lifted some time ago, this condition should not interfere with the legitimate acquiring of a taxi vehicle licence. Anyone meeting the necessary conditions will be granted a taxi licence irrespective of how many licences have already been issued. New licences will however only be granted for taxis that are fully wheelchair accessible.

3. Recommendation

3.1 In order to avoid the possibility that licences will be transferred to avoid the disabled access condition, it is recommended that the following conditions be attached to ALL licences.

1. 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.

The Family Exemption

2. Any transfer by a hackney carriage proprietor of an interest in his licence, in whole or part, which is limited to a transfer of such interest to a member of the proprietor's immediate family as defined below, shall not be affected by the disabled access condition to any greater extent than the licence would have been affected had the transfer not occurred. Therefore, upon a transfer to a family member of an interest in a hackney carriage proprietor's licence, the relevant disabled access condition applicable to that licence immediately before the transfer was effected will remain in force.
3. For these purposes, 'immediate family' shall mean the:-
 - Mother or Father
 - Spouse or partner
 - Children
 - Brothers or Sisters
 - Step-Mother or Step-Father
 - Step-Children
 - Step-Brothers or Step-Sisters

of the hackney carriage proprietor, but shall not extend to any additional family member.

4. Where it is claimed upon the transfer of an interest in a hackney carriage proprietors licence that the family exemption applies, it shall in every case be for the proprietor of the licence to prove that a family relationship exists within the above definitions.

Appendices *(in list format)*

None

Implications

Policy:	Applying this restriction will assist in helping to maintain a proportion of the taxi fleet with facilities for the disabled.
Financial:	None
Personnel:	None
Legal:	The suggested wording should improve clarity and legal precision.
Environmental:	None
Equalities:	This condition will ensure the elderly, the infirm and the disabled have reasonable access to taxis.
Property:	None
Risk Management:	None
Community Safety:	None

Consultation Responses

Local Stakeholders:	The limited time available has prevented detailed discussion with the taxi trade on the wording of this condition. However the trade was consulted and was in general agreement with the earlier wording suggested in September 2004. However this latest version is different and Members may wish to suspend standing orders to allow representatives of the trade to address the Committee.
Officers Consulted:	Elizabeth Howlett, Legal Services.
Trade Union:	Not applicable.