

**Response from Rossendale Borough Council to an undated letter from Rossendale taxi association.**

This response has been prepared to a letter from Rossendale taxi association to the proposals for a Policy for the licensing of hackney carriage and private hire drivers, vehicles and operators.

The purpose of the policy is to avoid uncertainty and incorporate many existing procedures, custom and practice. The policy is proportionate in the risks it is seeking to address, in terms of the costs and benefits.

I have addressed the points raised by the association in the same order as their letter but, where the paragraph numbers have changed from the draft document that they are commenting upon, I have attempted to clarify the correct paragraph. There are certain matters raised in the document that I have been unable to comment upon.

**2.11.**

The Penalty points Scheme is not currently being implemented.

**1.4.**

I think this refers to the sixth paragraph of 1.1, where, when there is an exceptional or unusual circumstance, it enables a departure from the approved Policy only with the approval of the Director of Business, the Monitoring Officer or the Unit Manager. This would give an element of discretion to senior management to depart from the policy in rare, appropriate, circumstances via a clear line of authority and procedure. Reasons for departure from policy would be recorded.

Policy should usually be followed (unlike legislation which must be adhered to) and provides assistance in the decision making process. It is utilised as additional guidance to promote fair outcomes. Policy is not however, 'set in stone' and may be departed from in occasional circumstances that can be justified.

**2.4. CRB checks.**

This is the current procedure.

**2.6 Annual Licences**

Annual licensing was introduced at the Licensing Committee on the 8<sup>th</sup> October 2007 to ensure that there was a more regular check on criminal convictions and driving offences than every three years.

The current price of a new badge is £120 plus the CRB fee. A renewal is £85 plus the statutory declaration.

The current procedure is that a Criminal Record Bureau Disclosure is required every three years and each year, a Statutory Declaration is submitted saying that the applicant has no convictions or, if they have, detailing those convictions. The Statutory Declaration is signed by the applicant in front of a Solicitor, the cost is £5, and it is a criminal offence not to disclose the convictions.

Photographs are required to be produced every three years, there are a wide range of people who can endorse the photographs, and the procedure is not onerous or costly. Appearances can change over a 3 year period. It is important public confidence is maintained in every aspect of our taxi service. Identification of drives should be clear to promote the public feeling safe.

It is alleged by the association that the Council has failed to provide appointments. Para.2.14 of the policy ('Renewals') gives time frames for applications and 2.17 sets out charges for missed appointments. This promotes efficiency of the licensing service and an organised timetable for appointments. Furthermore, the policy sets out the documents required for all applications so there can be less margin for error/wasted appointments etc

### **.2.7. Any other reasonable Cause.**

The reasons that a local authority may refuse, suspend or revoke a licence is contained in Section 61 of the Local Government (Miscellaneous Provisions) Act, 1976 which includes commission of offences. Section 61(1)(b) provides that suspension or revocation can also be for '**any other reasonable cause**'.

### **2.8. Photographs.**

A photograph of the applicant is part of his identification badge that the driver wears and is necessary that it is a good likeness.

### **2.10. DSA Driving Test.**

The current procedure is that when a driver fails to renew his licence before the expiry of his current licence, he is treated as a new driver, which entails the submission of a DSA test. It is reasonable to place some time limit on how long a DSA test will be valid for otherwise eg. driver could apply to renew his/her licence 2 years later without being tested.

The Policy seeks to extend that only insofar as, if a driver accumulates six penalty points on his DVLC driving licence, he will have to retake the DSA test within a certain time. Drivers receiving penalty points for offences such as speeding or using a mobile

telephone call in question the manner and safety of their driving. Those receiving penalty points for offences such as defective tyres demonstrate potential disregard for the safety of passengers. Such conduct poses a risk to public safety.

### **2.13 Vehicle Inspections.**

We currently carry out inspections of hackney carriages, sometimes with police officers only stopping licensed vehicles and checking them and sometimes with VOSA situated at a local garage checking the mechanical condition of the vehicle more thoroughly. Recent examples when vehicle licences have been suspended in these operations are for defective tyres and steering faults. Safety issues cannot be negotiated. ..The Council has to be satisfied the vehicle is to standard before it is utilised. Vehicle licences can only be suspended or revoked or renewal refused with good reason and notice of the ground for suspension/ revocation/ failure to renew has to be provided by the Council. An appeal may be made to the Magistrates Court if a taxi driver wishes to challenge the validity of the decision. This is provided for in section 60 Local Government (Miscellaneous Provisions) Act 1976.

### **2.14 Renewal of licence.**

This comment requires clarification, in order for the local authority to respond.

### **2.15 Annual badges. (Now 2.14).**

Annual badges and the reasons for them have already been explained.

### **2.17 Re booking fee. (Now 2.16)**

In the interests of customer service and efficiency, an appointments system is currently operated for vehicle, driver and operator licence applications and renewals, which take time to complete. Non attendance means that someone else could have taken that appointment and late attendance encroaches into the next appointment. For matters such as showing a new insurance certificate or a 6 monthly test certificate there is a walk in policy. The re-booking fee was introduced on the 6<sup>th</sup> August 2007 to curtail the increasing number of 'no shows' that were happening when they were able to book a speculative appointment for an application.

At point 2.6 of the Taxi Association response, there is reference to the Licensing Unit failing to provide a sufficient number of appointments therefore a specific booking system would address any such concerns.

### **2.19 Age limits (Now 2.18)**

This is a current age limit on vehicles, which has been in force for some years. There is a direct correlation between the age of the vehicle and the MOT failures. It is rare

that licensed vehicles are subject to any form of service schedule – the MOT that is required every six months is used to ensure a mechanical standard. Some other authorities do not have an age policy and the standard of their vehicles is much lower, and noticeably so, than those of Rossendale insofar as interior and body condition.

Paragraph 32 of the Department of Transport Guidance ('the guidance') provides

'Age limits.

*It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and in appropriate. But a greater frequency of testing may be appropriate for older vehicles – for example, twice –yearly tests for vehicles more than five year old.'*

The guidance states the setting of an age limit *may* be inappropriate. There is some discretion.

## **2.21 Advertising on vehicles (Now 2.20)**

Hackney carriages are readily recognisable by the public who may flag them down, by the door stickers, licence plates and roof sign. Advertising on the outside of vehicles detracts from them being easily recognised.

I cannot locate where the guidance states its good practice to advertise.

## **4.3 MOT's**

No specific issue appears to be raised by the association. Clarification is sought if any further comment is to be made.

## **4.9**

These are the same conditions as already appertain.

## **4.12.**

I would not expect a proprietor who has been hospitalised to be able, necessarily, to conform to this paragraph and discretion would be used where appropriate.

## **4.19**

This is a direct lift from the current hackney carriage and private hire vehicle conditions.

The Council may attach any conditions to a hackney carriage as they consider reasonably necessary (section 47(1)) of the Local Government (Miscellaneous

Provisions) Act 1976. If conditions are changed, reasons should be recorded, as good practice.

There is also a right of appeal to the Magistrates Court under section 47 (3) Local Government (Miscellaneous Provisions) Act 1976, if a person is aggrieved by any conditions attached to a licence.

#### **4.20 Rossendale test.**

The 'Rossendale Test' being conducted by garages in future is a new procedure and can hardly be omitted from the Policy. There should not be additional cost to the proprietors. It is not unreasonable to check that vehicles conform to the standards set by the Council twice per year.

#### **5.2. Private Hire operators.**

There is no dispute that the Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle and provides that a person shall hold an operators licence if they operate a private hire vehicle. Should any taxi driver or other person have cause for concern regarding the behaviour of any Council officer, there is a complaints procedure that can be followed.

Advice and enquiries regarding the requirement for a business radio licence can be made with Ofcom. Anyone utilising a taxi radio requires cover of a licence. This may be in the name of a sole trader etc.

#### **5.3**

This is a direct lift from the current conditions

There is a right of appeal to the Magistrates Court if a licence is not renewed suspended or revoked.

#### **5.4.3**

In plain English it says that a bound book should be used to keep records. If the Operator wishes to go fully computerised and not use a book, the computer record should be made contemporaneously, be capable of printing the record and should be capable of showing when the record was inputted into the computer.

#### **5.5.**

Section 58 of the Town Police Clauses Act, 1847 makes it an offence within the District to charge more than the metered fare, except a lower fare may be charged if an agreement in advance has been made. The meter must always be set at the

commencement of each journey. This is provided for in our byelaw for hackney carriages. A copy extract of the bye law regarding use of a taxi meter and fares is attached at Appendix 1. Please see paragraphs 4 and 19.

### **5.6 Using hackney carriages**

I am not sure what this refers to.

### **5.8. Again with threats**

This matter has already been addressed. There are clear time frames in the policy to arrange renewals.

### **6.2**

This is current procedure

### **7.16**

This is a direct lift from the current conditions and there is a right of appeal to the Magistrates Court under section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

### **7.17**

It cannot be omitted from the policy – it is an integral part of it.

Daniel Dobson  
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