

REPORT FOR DECISION

DECISION OF:	LICENSING & SAFETY PANEL
DATE:	13th FEBRUARY 2014
SUBJECT:	OPERATIONAL REPORT
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	W A JOHNSON
TYPE OF DECISION:	N/A – Report for information only
FREEDOM OF INFORMATION/STATUS:	This paper is in the public domain
SUMMARY:	A report to advise members on operational issues within the licensing service.
IMPLICATIONS:	
Wards Affected:	N/A
Scrutiny Interest:	Internal Scrutiny Panel

1.0 BACKGROUND

- 1.1 The report advises Members on operational issues within the licensing service.

2.0 TAXI ISSUES

- 2.1 Members will recall that at last month's meeting of the Panel, a request was made by Mr Oakes, Chairman of the Hackney Drivers' Association, that the Council reconsiders the licensing of rear loading vehicles as Hackney Carriages. The Licensing Service was directed to report the history of previous applications in the next Operational Report, including identifiable health & safety risks.

Requests from the Hackney Drivers' Association in relation to the licensing of rear loading vehicles as Hackney Carriages has previously been considered by the Licensing and Safety Panel on five separate occasions between December 2008 and October 2010. On those occasions the Panel was asked to consider two particular vehicles, namely the Fiat Freedom and the Peugeot Premier. On each occasion the Panel resolved not to licence rear loading vehicles as Hackney Carriages on the following grounds:-

- As all Hackney Carriages licensed by Bury Council are required to be wheelchair assessable, there were concerns relating to a wheelchair passenger being able to safely access a rear loading vehicle in both a manually propelled and an electric wheelchair.
- The vehicle is not suitable for use on a town centre rank. Bury Council byelaws requires Hackney Carriages to move up the rank once a taxi picks up a fare and moves off. This is to ensure that the maximum number of vehicle permitted to wait on the rank are able to do so. If a rear loading vehicle was the first vehicle on the rank, the driver would have to pull forward and away from the second vehicle, which could be in the line of traffic, so as to facilitate the rear loading of a wheelchair passenger. There would need to be approximately 3 metres free space behind the vehicle to accommodate the ramp, wheelchair and driver.
- Rank space in the Town Centre is at a premium and by allowing this type of vehicle would increase the problems that drivers and proprietors are currently experiencing.
- Potential legal challenge against the Council if a disabled person in a wheelchair was injured during the process of being brought down the raised kerb of the rank and onto the ramp in readiness for entering the rear of the taxi. There was a chance that the Council could be held to be liable for damages for personal injury under the provisions of the Civil Liability (Contribution) Act, 1978. A full risk assessment would need to be undertaken by someone qualified to do so. The Council's legal advisor at that time stated that there was some case law on this subject and that in the case in question, the local authority managed to defend the case successfully. The risk of anyone taking legal action was probably fairly low but would depend entirely upon the facts as to whether it would be possible to defend any such action successfully. The concern was that the Council is now aware of the raised kerb issue and that there are no plans to create a lowered kerb for a smoother transition for rear loaders.

When the matter was last considered by the Licensing and Safety Panel on the 12th October 2010, a Peugeot Premier rear loading vehicle was also presented for Members to inspect. The Panel resolved not to licence the vehicle as a Hackney Carriage. The Panel further resolved to delegate to the Head of Commercial and Licensing and or to the Licensing Unit Manager, authority to consider any further similar applications relating to the licensing of rear loading vehicles as Hackney Carriages.

Previously minuted Panel decisions reflect health & safety concerns. Health and safety regulations require that taxi drivers, as self employed persons, conduct assessments of risks relating to their own health & safety and of those who may be affected by their actions. Whilst any risk assessment should be specific to a type of vehicle and operation the Council's Health & Safety Inspectors can easily identify some potential risks.

A) Our ranks are designed for side loading vehicles, not rear loaders

- A safe working space at the rear of vehicles on the rank can not be assured
- To facilitate loading it is very likely and foreseeable that a vehicle would have to move off the rank and into the carriageway obstructing other road users with a risk of collision.
- There is no requirement for a passenger to use the first vehicle on the rank. If safe working space was left between each vehicle rank capacity would decrease by half; potentially leading to ranks overflowing into unsuitable parking areas.

- B) Without a lowered kerb rear loading would require the passenger to be taken down the kerb height. Risks would include
- Manual handling and load control for the driver/ carer
 - Jarring or dislodging a passenger
 - Increased ramp angle from ground to vehicle increasing effort to load
 - Some wheelchairs may not be designed to descend a full kerb height leading to damage or grounding

To control the risks identified above the simplest measure would appear to be the continued use of side loading vehicles. Alternatively, it may be possible to redesign the ranks in some way to facilitate rear loading but this is unlikely in the foreseeable future. Formal risk assessments will be sought for any future applications for rear loading vehicles.

2.2 Plying for Hire Exercises

In response to Mr Oakes complaint in relation to private hire vehicles allegedly plying for hire, the Licensing Service have, in the past carried out a number of successful plying for hire exercises which have resulted in a small number of private hire drivers being prosecuted for plying for hire.

Licensing Enforcement Officers will continue to confront drivers of private hire vehicles suspected of plying for hire in places where members of the public are likely to gather. Legitimate parking in these areas can normally be established by reference to the data head fitted in the majority of private hire vehicles via which advanced bookings are passed by the Private Hire Operator accepting the advance booking. If the Licensing Service believes a particular area is becoming a hot spot, a plying for hire operation may be considered at that point. We will continue to investigate complaints where evidence of wrong doing is presented.

3.0 UPDATE ON LICENSING HEARINGS

- 3.1 On the 20th January 2014, a Licensing Hearings Panel considered an application to vary the Premises Licence in respect of Longsight Service Station, Longsight Road, Greenmount. The application was to extend the hours the premises were authorised to sell alcohol to 24 hours per day and to add the regulated activity of Late Night Refreshment. Representations were received from two ward Councillors. After considering the application and the representations, the Panel considered it reasonable, balanced, appropriate and proportionate, based on all of the evidence, to grant the application subject to inclusion of the following pre-agreed condition with GMP for security reasons:

"The entrance door to the shop will be closed to customers between midnight and 06.00 daily. Any sales between these hours will be made via a payment window".

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