

**Note on additional requirements for the licensing of E7 vehicles
as Hackney carriages in Peterborough**

1. Peterborough has recently reconsidered its conditions of fitness the licensing of vehicles as Hackney carriages locally. An important positive step has been taken: removal of the tight turning circle requirement which meant that only TX taxis and One80s could be licensed locally. That is welcome.
2. However, the replacement policy contains a very unusual feature: a requirement that E7 taxis and One80s have a swivel mounted rear passenger seat to facilitate access by certain disabled passengers.
3. That requirement is not objectionable in itself. Indeed, if it were imposed on the whole Hackney taxi fleet of Peterborough, Allied would have no objections at all. However, as matters stand, it is not to be imposed on TX taxis at all, and indications have been given that discretion will be exercised to exempt One80s. It follows that the requirement will only apply to E7 taxis. These taxis, and their manufacturer – Allied - are being singled out for special treatment. The effect is that E7s licensing Peterborough will cost more than they otherwise would, making them less attractive to buyers.
4. Three points need to be made about this state of affairs.
5. First, as a matter of common law, when a public authority is exercising a decision-making function which affects two or more competing commercial bodies it needs to deal with them fairly and equally unless there is some compelling reason not to (see e.g. *R (on the application of Camelot Group Plc), v National Lottery Commission* [2000] EWHC Admin 391).
6. Here no reason, less still a compelling one, has been given for treating Allied differently from the other two manufacturers seeking to supply Hackney taxis to the Peterborough market, despite enquiries being made by this firm.
7. Secondly, when a manufacturer's vehicle is manufactured substantially outside the UK, imposing a condition as part of a local licensing policy which means that vehicle is less commercially attractive (i.e. harder to sell because of cost) relative to other vehicles amounts to a restriction on imports which will be unlawful under the EU Treaty unless it can be justified as a proportionate means of achieving a legitimate public health or safety aim.
8. In this case, imposing the requirement for a swivel mounted rear passenger seat on one manufacturer's vehicle, but not others, is inherently disproportionate. If the

aim is to improve the health or safety of disabled passengers, then the way to achieve it is by applying the condition to all vehicles, not just one. Applying it to one, thus increasing the cost of those vehicles on the market relative to others, is likely to mean less, not more, becoming locally available.

9. Thirdly, I am only aware of one other licensing authority that sought to single out a particular manufacturer's vehicles in their Hackney carriage conditions of fitness and require more of them. This was Blackburn Council. When the unlawful effects of its policy were drawn to the Council's attention, it was immediately modified.

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