

<b>LICENSING COMMITTEE</b>	AGENDA ITEM No. 4
<b>17 APRIL 2014</b>	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Marco Cereste	
Contact Officer(s):	Licensing Manager Adrian Day Strategic Regulatory Services Manager Peter Gell	Tel. 454437 Tel. 453429

CHANGES IN THE LICENSING POLICY FOR HACKNEY CARRIAGE VEHICLE LICENSING

R E C O M M E N D A T I O N S	
FROM : The Licensing Team Licensing Manager Adrian Day	Deadline date :
<p>1. To amend condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles” so that the exemption applies to all newly presented vehicles for licensing retaining the expiry date for the condition as 15 November 2014.</p> <p>Condition 13.3 to read;</p> <p><i>13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical disabilities, unless;</i></p> <p><i>a. the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed, or</i></p> <p><i>b. the vehicle is newly presented for licensing, in which case this condition will not apply until the 15 November 2014 to allow manufacturers / suppliers time to comply with this requirement. From the 15 November 2014 all newly presented vehicles for licensing will be required to have the swivel seat fitted.</i></p>	

**1. ORIGIN OF REPORT**

- 1.1 On the 14 November 2013 the Licensing Committee approved the draft conditions of fitness for Hackney Carriage vehicles, these were adopted as the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”
- 1.2 Following the adoption of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles” the council received a letter dated 24 January 2014 from Bindmans LLP acting on behalf of Allied Vehicles Ltd.
- 1.3 Allied Vehicles are the converter / supplier of the Peugeot E7 and have challenged the council in relation to condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”, stating that the condition results in a commercial advantage for one manufacture.

**2. PURPOSE AND REASON FOR REPORT**

- 2.1 This report relates to the Licensing Committees decision at a meeting held on 14 November 2013 to approve amendments to the council’s conditions of fitness for hackney carriage vehicles. A copy of the report pack is attached at **Appendix A**.

- 2.2 Following the approval these were adopted as the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. The adopted conditions are attached at **Appendix B**.
- 2.3 Following the amendment of the conditions of fitness the council has received a challenge in writing from Bindmans LLP on behalf of their client Allied Vehicles Ltd in relation to condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. The letter is attached at **Appendix C**.
- 2.4 Condition 13.3(b) allows an exemption for all newly presented vehicles for licensing until 15 November 2014 from the requirement to have a swivel type occasional seat fitted where this is not available as an option from the manufacturer / converter of the vehicle. On 15 November 2014 the exemption will cease and all newly presented vehicles will be required to have a swivel type occasional seat fitted.
- 2.5 Following the receipt of the challenge the Licensing Committee is asked to consider the comments raised on behalf of Allied Vehicles Ltd in relation to condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. Then the Committee will be asked to consider officer recommendations to amend the condition.

### 3. **TIMESCALE**

Is this a Major Policy Item /Statutory Plan?	<b>No</b>
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### 4. **BACKGROUND INFORMATION**

- 4.1 On 29 July 2013 the Licensing Committee after considering consultation feedback and listening to stakeholders approved the Peugeot E7 Short Wheel Base (SWB) SE and XS models as suitable to be licensed as Hackney Carriage Vehicles in Peterborough.
- 4.2 The Licensing Committee specified that the E7 must also be fitted with an induction hearing loop system as with existing Hackney Carriage Vehicle requirements as set out in council’s existing Conditions of Fitness for Hackney Carriage Vehicles.
- 4.3 In addition the Licensing Committee specified that the E7’s nearside occasional flip down seat must be of a swivel type to accommodate the needs of the physically disabled; this option is already available as a standard feature on all LTI vehicles, however this feature is not available on the Mercedes Benz Vito.
- 4.4 In order for the Peugeot E7 to meet the existing Hackney Carriage Vehicle “Conditions of Fitness” some conditions had to be amended or removed to enable the vehicle to meet the requirements.
- 4.5 It is good practice to review all policies from time to time in order to ensure that the policy adopted remains fit for purpose, takes in to account any changes in legislation, or to consider any other factors that may have an effect on the service to which the policy relates.
- 4.6 The “Conditions of Fitness” were amended in draft form, changes included the removal of the turning circle requirement, minor specifications relating to the passenger compartment insofar as seat clearance and window dimensions. In addition some outdated conditions were removed as they were deemed no longer relevant or fit for purpose.
- 4.7 The Licensing Committee had previously specified that the E7’s nearside occasional flip down seat must be of a swivel type to accommodate the needs of the physically disabled; as this was a new requirement and was to be applied to all Hackney Carriage Vehicles, provisions for this needed to be included in the amended “Conditions of Fitness”.
- 4.8 The Licensing Committee was asked to consider a proposed condition regarding the swivel seat and possible exemptions for existing vehicles, as follows;

### Condition 13.3

13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical disabilities, unless;

- a. *the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed, or*
- b. *the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not be implemented for (To Be Confirmed) months, and will apply to all newly presented vehicles for licensing from (Date To Be Confirmed) (allowing manufacturers / suppliers time to comply).*

**4.9** On 14 November 2013 the Licensing Committee was asked to consider the newly amended draft Conditions of Fitness with the anticipated outcome being that the Committee would approve the draft conditions with or without changes.

**4.10** The Licensing Committee heard from Simon Guillatt from Allied Vehicles Ltd, who presented a document from John Halford from Bindmans LLP representing Allied Vehicles Ltd. This is attached at **Appendix D**.

**4.11** At the Licensing Committee meeting the draft conditions were discussed, and in particular a newly added condition 13.3 in relation to the requirement to have a swivel type occasional near-side seat fitted.

**4.12** For information purposes there are 191 Hackney Carriage Vehicles currently licensed in Peterborough, 178 are LTI vehicles (London Cabs), 9 are Mercedes Benz Vito's, and 4 are Metro-cabs.

- All of the 178 LTI vehicles have the swivel seat fitted.
- None of the Mercedes-Benz Vito's have the swivel seat fitted.
  - It should be noted that the council has not received a Mercedes-Benz Vito to be licensed for the first time since August 2010 so therefore we do not anticipate a significant number being presented in the near future.
- None of the Metro-cabs have the swivel seat fitted (this vehicle is no longer available).

**4.13** The Licensing Committee agreed that it would not be cost effective for existing licensed vehicles to be retrofitted, and it was doubtful if it would even be structurally possible. Therefore the committee voted to allow an exemption for all existing licensed vehicles from the requirement to have a swivel type occasional seat.

**4.14** The committee then considered newly presented vehicles for licensing, they heard that the swivel seat already came as standard on the LTI (London Cab), it was also available as an optional extra on the Peugeot E7, however it was not currently available on the Mercedes-Benz Vito. The committee discussed if an exemption should be granted allowing manufacturers / suppliers time to comply.

**4.15** It was discussed that an exemption could be seen as a commercial advantage / disadvantage by manufacturers / suppliers. The committee agreed that a 12 month exemption should be granted. This was in order to give manufacturers who were unable to currently comply a reasonable time frame to develop modifications or proportionate notice that said vehicles will no longer be considered approved.

**4.16** Condition 13.3 as approved by the Licensing Committee.

13.3 The near-side occasional seat must be of swivel type in order to accommodate the needs of passengers with physical disabilities, unless;

- a. *the vehicle was licensed prior to these Conditions of Fitness being adopted and this facility was not installed, or*

*b. the vehicle is newly presented for licensing and this facility is currently not available as an option; where this is the case this condition will not be implemented for 12 months, and will apply to all newly presented vehicles for licensing from 15 November 2014 (allowing manufacturers / suppliers time to comply).*

**4.17** On 14 November 2013 the Licensing Committee approved the amendments to the conditions of fitness and these were adopted as the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”. These are attached at **Appendix B**.

**4.18** Following the committee’s decision to adopt the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles”, a challenge was received from Allied Vehicles Ltd, the converters of the Peugeot E7. The challenge is in relation to condition 13.3(b) Bindmans LLP acting on behalf of Allied Vehicles Ltd believes that “the net result is that one manufacturer has ended up with a commercial advantage that brings no benefit to the taxi using public of Peterborough. The letter from Bindmans LLP is attached at **Appendix C**.

**4.19** The Licensing Committee is requested to consider the comments made by Bindmans LLP on behalf of Allied Vehicles Ltd in relation to condition 13.3(b), and approve officer recommendations and amend the condition.

## **5. RISKS**

**5.1** Although there have been no risks identified with the adoption of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles” in general, it should be noted that particular consideration should be taken by the committee when agreeing any exemptions in relation to condition 13.3(b) insofar as creating any commercial advantages or disadvantages to vehicle suppliers.

## **6. ANTICIPATED OUTCOMES**

The Licensing Committee to formally reconsider condition 13.3(b) of the “Peterborough Conditions of Fitness for Hackney Carriage Vehicles” and approve officer recommendations to amend the condition, this will form part of the Taxi and Private Hire Licensing Policy / Guidance document.

## **7. REASONS FOR RECOMMENDATIONS**

- To consider the challenge received from Allied Vehicles Ltd to review the policy.
- To remove any possible commercial advantage or disadvantage for manufacturers or suppliers.
- To ensure that the policies and procedures continue to be fit for purpose.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- Retain the status quo.

## **9. IMPLICATIONS**

### Corporate Resources

Financial – There are costs associated with undertaking a public consultation exercise, however there are also costs associated where a policy is challenged due to it not being fit for purpose.

Legal – Legal support has been provided by the council’s legal team regarding the provision of advice and guidance on taxi licensing matters and the requirements of the consultation. Some advice has also been provided by counsel.

Corporate Priorities: Environment Capital  
Crime and Disorder / Community Safety

Discrimination and Equality – none arising from this report  
Human Resources – none arising from this report  
ICT – none arising from this report  
Property – none arising from this report  
Procurement – none arising from this report

### Risk Assessment

Risks associated with policy changes will be assessed, and remedial actions identified where necessary. None identified.

An equality impact assessment was undertaken prior to submitting policy changes for adoption.

Policy changes will not have a disproportionate effect on any of the members of the equality groups.

### **BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

The Local Government (Miscellaneous Provisions) Act 1976

The Town and Police Clauses Act 1847

Equality Act 2010

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