

**Name of meeting and date: Licensing and Safety Committee.
 24TH September 2013.**

Title of report: - Horse Drawn Hackney Carriage Policy.

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Is it in the Council's Forward Plan?	Not Applicable
Is it eligible for "call in" by Scrutiny?	Not Applicable
Cabinet member portfolio	Not Applicable

Electoral wards affected and ward councillors consulted: ALL

Public or private: PUBLIC

1. Purpose of report

To seek member approval of a draft policy for the licensing of Horse Drawn Hackney Carriage vehicles and drivers.

2. Key points

- The licensing department of the Council has recently received an application to licence a Horse Drawn Hackney Carriage.
- The Council currently do not have a policy in place to refer to.
- The licensing of Hackney Carriage vehicles is governed by Town Police Clauses Act 1847, and Local Government (Miscellaneous Provisions) Act 1976.
- The Council currently restrict the number of Hackney Carriage Vehicles licensed, however, it is not anticipated there will be a large number of applications for Horse Drawn vehicles, and this should not adversely affect the overall upper limit on numbers.
- It is anticipated that both the vehicles and the horse/carriage driving ability of applicants will be undertaken with the assistance of the British Driving Society
- A suggested draft policy is appended to this report at Appendix A.
- As this draft policy is the first one considered by Licensing and Safety Committee, it is anticipated that minor amendments will be necessary on an on-going basis. A request is made that the Licensing Manager should have delegated authority to implement any minor amendments necessary.

3. Implications for the Council

Not applicable

4. Consultees and their opinions

The British Driving Society.

5. Officer recommendations and reasons

- That the proposed draft policy is approved.
- That the licensing manager is given delegated authority to implement minor amendments to the draft policy on an on-going basis.

6. Cabinet portfolio holder recommendation

Not applicable

7. Next steps

Not applicable

8. Contact officer and relevant papers

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DRAFT POLICY FOR LICENSING HORSE DRAWN HACKNEY CARRIAGE VEHICLES AND DRIVERS.

Introduction

- 1.1 The licensing of hackney carriages is governed by the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976. This places on Kirklees Council as the Licensing Authority (the "Authority") the duty to carry out its licensing functions in respect of hackney carriages and gives the Authority power to impose such conditions on a vehicle licence as it may consider reasonably necessary.
- 1.2 The Authority has put in place rules, procedures and conditions and has adopted byelaws to regulate the motor vehicle hackney carriage trade. The purpose of this policy is to adapt and apply the existing controls to horse drawn hackney carriages and their drivers.
- 1.3 Horse drawn hackney carriages shall, so far as determined appropriate by the Council, be operated in accordance with the hackney carriage byelaws made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875, by Kirklees Council with respect to hackney carriages in Kirklees District (See Appendix A)
- 1.4 In setting out its policy, the Authority seeks to promote the following objectives:
 - (i) The protection of public health and safety;
 - (ii) The establishment of a professional and respected hackney carriage and private hire trade;
 - (iii) Access to an efficient and effective public transport service;
- 1.5 The aim of the licensing process, in this context, is to regulate the horse drawn hackney carriage trade in order to promote the above objectives. It is the Authority's wish to facilitate well-run and responsible businesses, which display sensitivity to the wishes and needs of the general public.

2. Carriages

2.1 Carriage Specification

The Authority is permitted a wide discretion in deciding what it will and will not licence by Section 47(2) of the 1976 Act:

(1) A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary

(2) Without prejudice to the generality of the forgoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear any such distinguishing marks as shall clearly identify it as a hackney carriage.

2.1.1 Whilst the preferred carriage is of traditional style fitting the general description of a **landau***, the Authority wishes to promote an attractive tourist destination where horse drawn hackney carriages enhance the visitor experience. It is for this reason that the Authority does not wish to restrict the style and design of carriages wherever possible.

***The definition of a landau is a four-wheeled carriage, usually horse-drawn, with two folding hoods that meet over the middle of the passenger compartment**

2.1.2 The basic requirements for a carriage are:

- 4 wheels
- A compartment for the passengers to be carried in
- Capable of carrying a minimum of four and up to six passengers

2.1.3 Carriages must be safe for use as a hackney carriage vehicle and of a type suitable for horse drawn hackney carriage work in respect of seating, space, head and knee room and any other reasonable condition to the satisfaction of the Authority.

2.1.4 Carriages shall so far as is appropriate comply with the requirements of the Road Traffic Acts and any other Acts relating to vehicles using a public highway or any subsequent Acts, and any of the Orders and Regulations made in pursuance thereof.

2.1.5 In order to prevent any nuisance or obstruction waiting locations will be subject to approval by the Council

2.2 **Signage**

Every licensed carriage must display a licence plate to the rear which indicates the licence number and licence expiry date together with any additional information that the Authority may from time to time prescribe

2.3 **Public Liability Insurance**

The carriage and driver should be insured at all times for the purposes of the operation of a hackney carriage.

2.4 **Carriage Testing**

- 2.4.1 All carriages must be inspected and tested prior to licensing, or licensing renewal, by an examiner approved by the Authority. All carriages must be produced with a full set of tack and its own horse.
- 2.4.2 At the annual inspection, for the purposes of identification, each carriage will be fitted with a mark, tag or similar device carrying a unique identification number. This tag must not be tampered with. The licensing service must be notified immediately if any damage is caused to this tag.

2.5 **Veterinary examination of horses**

Horses harnessed to, or used in connection with the licensed vehicle shall be examined by a veterinary surgeon every 12 months and issued with a certificate of fitness in a form approved by the Authority to be returned to the Licensing Service forthwith.

2.6 **Conditions**

All horse drawn hackney carriage licences will be issued subject to the following conditions:

1. Hackney carriage vehicle and drivers licences are issued subject to compliance with the requirements of the Council's Horse Drawn Hackney Carriage Policy
2. *In so far as determined appropriate by the Council, a horse drawn carriage shall be operated in accordance with the Hackney Carriage Byelaws made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875.*
3. The proprietor shall keep in force a policy of insurance appropriate to a carriage used for public hire and covering third party liability both in respect of physical injury or death AND in respect of damage to personal belongings. A valid copy of the insurance certificate or cover note shall be carried in the carriage at all times and shall be produced to an authorised Officer of the Council or a Police Constable for inspection whenever required.
4. The carriage and harness shall be subject to an inspection every twelve months by an examiner approved by the Council.
5. No horse shall be harnessed to, or used in connection with the licensed vehicle unless within the preceding twelve months, a veterinary surgeon has examined the horse and issued in respect of it a certificate of fitness in a form approved by the Authority. A copy of the certificate shall be provided to the Licensing Service forthwith.
6. No horse shall be harnessed to or used in connection with the licensed vehicle unless it is identified by a horse passport. This passport shall also be

provided to the veterinary surgeon on annual inspection and carried at all times on the carriage when the horse is in use.

7. The horse, carriage and harness may be subject to examination and inspection by an Authorised Officer, veterinary surgeon or examiner appointed by the Council at all reasonable times.
8. The proprietor shall comply with all accepted standards of horse welfare including the current edition of the Equine Industry Welfare Guidelines Compendium for Horses, Ponies and Donkeys
9. If the Authorised Officer of the Council is not satisfied at any time as to the standard of welfare of the horse, or the fitness of the horse or the carriage and harness, the licence may be suspended.
10. The licence holder must have due regard to adverse weather conditions and consider the horse's welfare at all times.
11. The horse/s must be regularly and competently shod.
12. The Proprietor shall provide adequate facilities for the provision of food and refreshment for the horses at a suitable location to the satisfaction of the Council
13. No horse shall be in harness for more than seven hours in any one day and if in harness for seven consecutive hours shall during that period have a break of not less than one hour and shall be fed and watered,
14. A horse which in any one day is harnessed to or used in connection with a licensed hackney carriage shall not be used at any time during that day for any other purpose
15. All carriages must be fitted with a dung catching device while the carriage is in use on any public highway. This must be of a design and so fitted as to not cause nuisance or interference to either person or horse, or cause any distress to the horse. Dung produced by the horse shall immediately be cleaned up by the driver and not be permitted to remain in any public place.
16. Lights should be fitted to the carriage at all times and should be capable of being lit by the driver.
17. The table of fares as approved by the Council shall be displayed in the carriage in such a manner that it is capable of being easily viewed by the passengers being conveyed in the carriage.
18. The Proprietor shall at all times when a vehicle is hired take all reasonable steps to ensure the safety of passengers conveyed therein and persons entering and alighting from the carriage.
19. The vehicle and all its fittings and equipment shall at all times when the vehicle is in use or available for hire be kept in an efficient, safe, tidy and clean condition.

20. No material alteration or change in the specification, design, condition or appearance of the vehicle shall be made without the approval of the Authority at any time while the licence is in force.
21. The proprietor shall cause to be clearly marked and maintained inside the vehicle in such a position as to be visible at all times to persons conveyed therein the licence number and/or the number of passengers prescribed in the licence.
22. The licence plate provide by the Council shall be displayed on the rear of the vehicle, which indicates the licence number and licence expiry date
23. The driver shall at all times when working in a licensed hackney carriage, display in the vehicle the hackney carriage drivers identity card incorporating his/her photograph issued by the Council in conjunction with this licence and shall also wear a drivers ID badge displaying the same information
24. The proprietor shall, report to the Council as soon as possible, or in any event within 72 hours, any accident involving a licensed horse drawn hackney carriage in their control.
25. The proprietor shall not cause any nuisance or obstruction
26. Waiting locations shall be subject to approval by the Council.

2.7 **Application Procedure**

- 2.7.1 The Authority will consider all applications on their own merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete

2.8 **Grant and Renewal of Licences**

- 2.8.1 Hackney carriage licences will be granted for a one-year period.

3. **Drivers**

3.1 **General requirement for drivers**

- 3.2 Only drivers licensed by the Authority shall be permitted to drive a licensed hackney carriage.

- 3.3 Drivers shall comply with the hackney carriage byelaws made under Section 68 of the Town Police Clauses Act 1847, and Section 171 of the Public Health Act 1875, by the Craven District Council with respect to hackney carriages in Craven District

- 3.3.1 Only a fit and proper person may hold a hackney carriage drivers licence

3.3.2 The driver shall at all times when working in a licensed hackney carriage, display in the vehicle the hackney carriage drivers identity card incorporating his/her photograph issued by the Authority in conjunction with this licence and shall also wear a drivers ID badge displaying the same information.

3.4 **Driving Proficiency and Qualifications**

3.4.1 A licence to drive a horse drawn hackney carriage will not be granted to a person has not held a full UK or EU driving licence for a period of two years

3.4.2 Applicants will be required to sign a mandate to enable the Authority to carry out periodical checks with the DVLA.

3.4.3 Applicants for a new licence will be required to pass a Council approved horse drawn hackney carriage driving test.

3.5 **Medical Fitness**

3.5.1 Horse drawn hackney carriage drivers are subject to the same requirements for medicals as motorised hackney carriage drivers.

3.6 **Disclosure and Barring Service Disclosures**

3.6.1 A criminal record check on a driver is seen as an important safety measure and horse drawn hackney carriage drivers are subject to the same requirements as motorised hackney carriage drivers.

3.6.2 Enhanced Disclosure through the Disclosure and Barring Service is required as these disclosures include details of spent convictions and police cautions.

3.6.3 The Rehabilitation of Offenders Act 1974 does not apply to applicants for hackney carriage driving licences. They are required to disclose all convictions, including those that would normally be regarded as spent.

3.6.4 Before an application for a driver's licence will be considered, the applicant must hold an Enhanced DxBS Disclosure of criminal convictions which has been carried out by the Authority, or a certificate of good conduct from the relevant embassy in the case of an overseas applicant.

3.6.5 The Authority is an approved Disclosure and Barring Service body; therefore the applicants are required to deal with the Disclosure and Barring Service through the Authority and will be charged an appropriate fee.

3.7 DxBS checks will be required once in every three-year period

3.8 **Application Procedure**

An application for a horse drawn hackney carriage driver's licence will be made the same manner as that currently specified by the Council for all other Hackney Carriage/Private Hire drivers.

3.9 Grant and Renewal of Drivers Licences

- 3.9.1 Application forms, appropriate fees, and supporting documentation, may be submitted 28 days prior to the expiry of the previous licence to ensure that the new licence and badge has been issued before the expiry of the current licence.
- 3.9.2 Once the licence has expired, renewal applications cannot be accepted and all applications will be treated as "new".

3.10 Convictions during period of licence

Drivers, who are convicted of any criminal or motoring offence during the currency of their hackney carriage driver's licence, must disclose the conviction and the penalty involved to the Authority within seven days. For these purposes, a fixed penalty motoring offence amounts to a conviction.

4 Disciplinary and Enforcement Measures

It is anticipated that disciplinary measures may be referred to, in the first instance the Licensing Manager, and subsequently to the Authority's Regulatory Committee in the same fashion as currently adopted for all other licensed vehicles and drivers.

4 Fares

4.1 Table of Fares

A table of authorised maximum fares will be provided to each hackney carriage licence holder, which must then be displayed in each carriage so that it is easily visible to all hirers.

4.2 Review

Fares rates are currently, normally only reviewed by the Authority following representations from the trade or from a particular sector of the trade.

4.3 Receipts

A hackney carriage driver must, if requested by the passenger, provide him/her with a written receipt for the fare paid.