

5. DENTS AND SCRATCHES 2008

REPORT OF: HEAD OF HOUSING, ENVIRONMENTAL HEALTH AND BUILDING CONTROL

**Contact Officer: Yvonne Leddy, Environmental Health Manager
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Wards Affected: All

Key Decision: No

1.0 PURPOSE OF REPORT

The purpose of the report is for the Licensing Committee to consider an application from the Mid Sussex Taxi Association requesting a suspension of condition (a) of the "Hackney Carriage and Private Hire Vehicle Fitness Inspection Schedule" relating to exterior condition of vehicles.

2.0 SUMMARY

A representation has been received by the Licensing Team of the Council from the Mid Sussex Taxi Association requesting a suspension of (a) of the "Hackney Carriage and Private Hire Vehicle Fitness Inspection Schedule" relating to exterior condition of vehicles. Their reason for this is due to the increase in fuel costs and the increase in competition from Private Hire vehicles operating in the area. The Taxi Association considers the strict application of the exterior condition of vehicles is placing an unnecessary financial burden on their members.

3.0 RECOMMENDATIONS

Members to advise which of the following options they support:

- (a) To remove condition (a) on the "Hackney Carriage and Private Hire Vehicle Fitness Inspection Schedule" relating to exterior condition of vehicles.**
 - (b) To retain condition (a) on the "Hackney Carriage and Private Hire Vehicle Fitness Inspection Schedule" relating to exterior condition of vehicles.**
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4.0 BACKGROUND

4.1 POWER TO LICENCE VEHICLES

By virtue of the Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985. The Council is required to administer and enforce the activities of Hackney Carriages and Private Hire Vehicles and Operators through out the district.

- 4.2 Before a local authority grants a vehicle licence it must be satisfied that all Hackney Carriages and Private Hire Vehicles are mechanically maintained to a high standard**

and are visibly presentable at all times. Once licensed these vehicles are regularly inspected by the Council to ensure that the standard is maintained.

4.3 In March 2003 the Licensing Committee resolved to authorise the Director of Community Development to carry out a review of the Councils existing Hackney Carriage and Private Hire Vehicle conditions. During the consultation period a copy of the draft amended vehicle conditions were sent out to all Private Hire Operators and the Taxi Association. A subsequent meeting was held with the trade from which a set of proposed revised conditions were produced. These were then reissued to every Hackney Carriage and Private Hire driver licensed by the Council for comments. This resulted in three responses, two from companies and one from the Taxi Association.

4.4 In July 2003 the final draft of the revised vehicle conditions and the Vehicle Inspection Schedule were placed before the Licensing Committee and were accepted and implemented with effect from 1st August 2003.

4.5 The vehicle Inspection Schedule (Appendix 2) lays out the test criteria to be used by the two contracted testing stations. Section (a) deals with EXTERIOR – Rust, Dents and Scratches and details what is acceptable and what is not.

4.6 These conditions have been applied since inception by the testing stations and to date there has not been an appeal regarding vehicles failed with dents and scratches.

5.0 NEIGHBOURING AUTHORITIES

5.1 The majority of neighbouring authorities have similar policies with regard to exterior conditions of vehicles, with Adur and Horsham Councils having identical policies.

6.0 RISK MANAGEMENT

6.1 In accordance with the Council's Risk Management Strategy, consideration had been given to the potential risks associated with the determination of this application. It is suggested that when reaching a decision it must be taken into account the need for there to be a balance between the rights of the licence holder and any risks that there may be to the travelling public.

9.0 FINANCIAL IMPLICATION

9.1 There are no financial implications.

10.0 OTHER MATERIAL IMPLICATIONS

10.1 None.

MID SUSSEX TAXI ASSOCIATION

Formerly the Mid Sussex District Hackney Plate Holders Association

Secretary: Mike Revely, 6 Cantelupe House, Cantelupe Road, East Grinstead, West Sussex. RH19 3BZ

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To the:

Mid Sussex District Council's Licensing Committee.

Subject: The Association's application for a moratorium on the current 'Dents & Scratches' policy in the light of prevailing economic circumstances within the industry.

We hereby petition the Council to agree to a suspension of the 'Dents & Scratches' regulations currently in place. Their stringency and strict application is, in our view, causing unnecessary expense to drivers during this difficult economic period when many divers are struggling to make ends meet.

We respectfully request that this is applied with immediate effect from the date of the hearing, if successful, as in the meantime some drivers may be forced to carry out 'corrective repairs' later deemed unnecessary and may seek compensation.

The justifying viability factors that support the application.

Market Share:

The vast number of Private Hire vehicles operating within MSDC borders (our own and those from Wealden, Reigate & Banstead, Mole Valley, Epsom & Ewell et al) and the fact that many of these vehicle rank up and take public hirings with apparent impunity is eroding the financial viability of the Mid Sussex taxi trade.

Fuel costs:

Recently fuel costs have increased dramatically, imposing extra costs upon taxi businesses where fuel expenditure is already a considerable part of our expenses. Without some relief in our outgoings the drivers' incomes will suffer.

We respectfully request that the above proposal is duly considered by the above committee.

The preceding documentation is laid before the Mid Sussex Council by:

Mike Revely,
Secretary for the Association.
July, 2008.



**HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE FITNESS INSPECTION
SCHEDULE**

VEHICLE INSPECTION SCHEDULE

Upon presentation for inspection, the exterior of the vehicle should be clean so that rust damage, dents and scratches can be clearly identified. Vehicle interiors should also be clean and tidy and free of accumulations of litter and rubbish. Exterior faults should be marked on the Inspection Schedule Sheet.

The vehicle is to be tested to a standard higher than that for a standard Department of Transport Test and testers' attention is drawn to items in the testers manual that are advisory.

If in the testers opinion any items or vehicle defects effects the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein, the items or item should be noted on the inspection schedule and the vehicle failed. Should it be considered by the tester that the vehicle is unsafe to be used to carry members of the public the tester is requested to inform the Council's Safety and Licensing Department on 01444 477335 immediately.

(a) EXTERIOR – Rust, Dents and Scratches.

(i) Rust

Any vehicle presented should be free from any significant areas of visible rusting. Although minor blemishes should not constitute a failure, the following general criteria should be followed:

Any vehicle with more than three rust patches of more than 3cms in diameter or a single rust patch of more than 20 sq.cms. should be failed.

(ii) Dents

Any vehicle with minor dents on three or more panels where such dents are more than 5 cms in diameter length or a single dent of more than 20cms in diameter/length, should be failed.

(iii) Scratches

Any vehicle with unrepaired scratches down to bare metal on three or more panels, of 5cms in length, or a single scratch of more than 20cms in length, should be failed.

(iv) Paintwork

All panels on the vehicle shall be painted in colours consistent with the general colour scheme of the vehicle: panels with unmatched colours or in primer, should be deemed as "failures".

(b) INTERIOR

(i) Seats

All seats, including the driver's, must be free from unrepaired cuts, tears or cigarette burns, except of very minor nature. Any repairs must have been carried out in a professional and neat manner.

(ii) Carpets/Floor Covering

All carpets and floor covering shall be complete and free from cuts, tears or serious staining.

The driver's footwell shall be clear and free of any obstructions (e.g. microphone, cash bag, torch etc).

(iii) Headlining and other Trim

All interior trim, including headlining, shall be clean, complete, properly fitted and free from serious cuts, tears or major soiling.

(iv) Window Operation

All passengers, excepting those occupying a middle seat, must be able to open adjacent windows without difficulty

(v) Tinted Windows

The windscreen and the front side windows to either side of the drivers head, shall not be tinted to a degree that exceeds the limits as laid out in the Road Vehicles (Construction and Use) Regulations 1986, as amended.

(c) Boot/Luggage Compartment

When presented for inspection, this should be empty, except for a full size spare wheel, essential tools and first aid kit. The compartment should be clean and any coverings free from major cuts, tears and other damage.

(d) Taxi Meter

All hackney carriages must be fitted with a taxi-meter calibrated to the current rate of hire charges.

(e) Roof Signs

All vehicles that normally display a roof sign capable of illumination must be presented for the test with that sign in place and in working order.

All signs that are capable of being illuminated shall illuminate and in the case of a Hackney Carriage the sign shall be wired to the taximeter so as to enable it to be extinguished while the meter is in operation. (Vehicles with meters/signs not complying shall be failed).

(f) Auxiliary Electrical Equipment

All auxiliary electrical equipment fitted to the vehicle (e.g. roof box, radio, ariels etc) must be securely wired into the vehicles electrical system and fused where appropriate.

All auxiliary wiring passing through the vehicle's bodywork must be adequately insulated (preferably through a grommetted hole). All auxiliary wiring must be kept away from fuel lines.

(g) Fire Extinguisher /First Aid Kit

All vehicles must carry a securely fixed fire extinguisher (fitted with a gauge indicating the level of contents) in a position which is readily accessible to the driver (preferably in the front of the vehicle) and a suitable first aid kit which is carried in such a position

in the vehicle as to be readily visible and available for immediate use in an emergency.

(h) Mirrors

All vehicles must be fitted with off-side AND nearside door or wing mirrors in addition to an interior mirror.

(i) Spare Wheel

A spare wheel must be carried on the vehicle and the tyre must be legal.

(j) Seat Belts

All vehicles must be fitted with rear seat belts.

Proprietors should arrange for their vehicles to be inspected as soon as possible prior to the current fitness certificate expiry date.

How ever in line with M.O.T. tests the Fitness test can be carried out not more than one month before the old certificate expires, the expiry date on the new certificate can be entered as 12 months from the expiry date on the old certificate. To take advantage of this extension to the expiry date, you must show your current certificate to the tester before he/she issues the new one.

Proprietors are particularly reminded that:-

(1) Apart from new vehicles mentioned at 3 below all vehicles over one year old being tested for a hackney carriage certificate and a private hire licence must first have a current MOT certificate. Private hire vehicles need an MOT certificate after ONE years. (The certificate must be produced at the time of inspection).

(2) The Contractor will be carrying out inspection work only. Under no circumstances will any repair work be undertaken.

The Contractor's inspection will not only cover the mechanical condition of the vehicle but also it's interior and exterior condition and appearance

All vehicles (apart from new vehicles with less than 6000 miles on the mileometer) must obtain a Certificate of Fitness. The certificate will be issued from Mr MOT or Supreme Clutch Services upon vehicles being passed as fit to be licensed.

All vehicles submitted for test must display a current Road Fund Licence.

The inspection fee must be paid when the vehicle is presented for inspection. A receipt will be given.

(3) No application for either a hackney carriage or private hire vehicle licence will be considered without a Certificate of Fitness, apart from new vehicles with less than 6000 miles on the mileometer. Such new vehicles should be brought to the Council Offices for inspection at the time of applying for the Licence. No fee will be charged for this inspection. The Certificate of Fitness is valid only for the duration as specified on the certificate.

Appeal procedures for vehicles failing the Council's fitness test

Where a vehicle fails the fitness test the vehicle proprietor has a right of appeal

The proprietor must inform the Licensing Officer **in writing** within seven days of the original test, that an appeal test is required. The appeal test will be conditional that

the vehicle shall have covered no more than 250 miles and that no repairs or adjustments are made to the item(s) or system(s) which are subject of the appeal.

An Inspector from the Vehicle and Operator Service Agency will conduct the appeal test at the Council's current vehicle testing station.

The vehicle proprietor along with his/her engineer, the tester who failed the vehicle and the owner or a representative of the testing station will be given the opportunity to attend the appeal test.

The adjudication of the appeal Inspector will be final.

NB Proprietors are reminded that a fee will be charged if an appointment is broken or cancelled with less than 48 hours notice.
In your own interests please ensure that your vehicle is in a clean and roadworthy condition before making the appointment for a test.

The above testing is in addition to the requirements for normal MOT Certificates. However, if required Mr MOT and Supreme Clutch Services will issue a VT20 Ministry of Transport Certificate for a reduced fee if requested at time of Council Test.

6, DSA TESTING DISCIPLINARY

REPORT OF: HEAD OF HOUSING, ENVIRONMENTAL HEALTH AND BUILDING CONTROL

**Contact Officer: Yvonne Leddy, Environmental Health Manager
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Wards Affected: All

Key Decision: No

1.0 PURPOSE OF REPORT

The purpose of the report is for the Licensing Committee to consider how Driving Standards Agency (DSA) driver testing can be applied as part of the disciplinary process for existing Hackney Carriage and Private Hire drivers to ensure that they remain fit and proper persons to hold those licences.

2.0 SUMMARY

On 20th March 2008 the Licensing Committee resolved that from the 1st October 2008 all new applicants for Hackney Carriage and Private Hire drivers licences are required to pass a Driving Standards Agency (DSA) driving test. It was also resolved that this committee would consider, at a later date, the virtue of requiring DSA driver testing as a possible course of action to resolve disciplinary issue for existing drivers who transgress Road Traffic Regulations or licence conditions. This report outlines the Council's legal duties for licensing, provides details of the DSA testing and the position of neighbouring Sussex authorities.

3.0 RECOMMENDATIONS

Members to advise which of the following options they support.

- (a) Require an existing driver to undergo a DSA driving test as part of the disciplinary process in the following circumstances:**
- (i) Where a driver accumulates more than 6 current penalty points on their DVLA Driving Licence.**
 - (ii) Where a driver is convicted by a court for an offence of Reckless or Dangerous Driving following involvement in a Road Traffic Accident irrespective of how many penalty points they have been awarded.**
 - (iii) Where a driver is disqualified from driving by a court.**
 - (iv) Any other reason the Committee may decide.**
 - (v) Where the Council has received two substantiated complaints concerning the safety of a drivers driving ability over a three year period ending on the date of the second substantiated incident and the Council has notified the driver of its findings in writing.**

In the case of (i) to (iii) drivers will be required to pass a DSA driving test within a period of six months from the date of written notification to the driver of the requirement to take the DSA test following the drivers notification of their conviction to the council.

In the case of (iv) and (v) drivers will be required to pass a DSA driving test within a period of six months from the date of written notification to the driver.

After the expiry of the relevant six month period a drivers licence will not be renewed unless the driver concerned has produced to the Council evidence that he /she has passed the DSA driving test. Drivers aggrieved by this must give notice of appeal in writing to the Council within a set time period, e.g. 7 / 14 / 21 days.

(b) Not introduce the use of DSA driving tests as part of the disciplinary process.

4.0 BACKGROUND

4.1 POWER TO LICENCE DRIVERS

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 gives local authorities the power to grant licences to drive a Hackney Carriage. Section 51 provides similar powers for the licensing of Private Hire Vehicle drivers.

4.2 Before a local authority grants a drivers licence it must be satisfied that the applicant is a fit and proper person and that they have held a full drivers licence for a minimum period of one year.

4.3 Section 61 of the Act allows authorities to refuse to renew a driver's licence if they have been convicted of various offences or "any other reasonable cause" which could include an applicant they no longer considered to be a fit and proper person.

5.0 DRIVING STANDARDS AGENCY TEST

5.1 The Driving Standards Agency (DSA) is the Government authorised body that administers the compulsory driving testing scheme in the UK, the passing of which is a preliminary requirement to the granting and issuing of a conventional driving licence for motor vehicles.

5.2 They offer a discretionary driving assessment for the drivers of Hackney Carriage and Private Hire Vehicles which takes into account driving practices and manoeuvres that most licensed drivers will perform as part of their daily duty. The test for Hackney Carriage Drivers can also incorporate the loading and unloading of passengers that are wheelchair users in suitably constructed vehicles. Consequently this test will provide a recognised assessment of the applicants driving ability and suitability to be licensed.

5.3 The pass rate for these tests up to January 2008 was reported at 50.4%.

5.4 Hackney Carriage and Private Hire Vehicle Driving Testing can be carried out at DSA testing stations located at Crawley, Reigate and Brighton. At this moment in time only the testing station located at Crawley has the facility to accommodate wheelchair vehicle testing.

5.5 There is a charge to all applicants who undergo the driving test these will be increasing with effect from 1st April 2008 and the charges will be as follows :

Monday to Friday Normal type of Hackney Carriage /Private Hire Vehicle :£69
Monday to Friday Wheelchair Accessible Vehicle (Hackney Carriage) : £80:50
Monday to Friday Wheelchair element of test only : £23

There are also facilities for out of hours testing e.g. Saturday mornings and early evenings during the summer months with charges as follows:

Normal type of Hackney Carriage / Private Hire Vehicle £83
Wheelchair Accessible Vehicle (Hackney Carriage) : £97
Wheelchair element of test only : £28.

6.0 NEIGHBOURING AUTHORITIES

6.1 In January 2008 the Driving Standards Agency reported that 101 local authorities had adopted DSA testing of drivers.

6.2 Locally in Sussex the position is as follows:

- Horsham introduced DSA testing in 2003 for all new applicants and for disciplinary purposes.
- Crawley introduced DSA testing in 2002 for all new applicants and for drivers changing from Private Hire to Hackney Carriage.
- Adur introduced DSA testing in 2006 for all new applicants and for disciplinary purposes.
- Lewes introduced DSA testing in 2007 for all new applicants.
- Wealden introduced DSA testing in 2004 for all new applicants and for disciplinary purposes.
- Eastbourne introduced DSA driver testing 2005/2006 for all new applicants and for disciplinary purposes.
- Rother introduced DSA testing in 2006 for all new applicants.
- Hastings has a driving test for all new applicants but this is conducted in house and not by DSA, they have a separate penalty points scheme for disciplinary purposes.

The remaining authorities in Sussex do not currently have a driving test as part of their driver licensing application process.

7.0 CONSULTATION WITH THE TRADE

7.1 On Tuesday 22nd September 2008 the Licensing Officer met with a representative of the Mid Sussex Taxi Association where the matter was discussed.

8.0 METHOD OF ADOPTION

8.1 If the Committee is minded to adopt any of the recommendations as part of the disciplinary process, there are a number of ways that it could be adopted:

- (i) On the recommendation of the Licensing Committee following a disciplinary hearing.
- (ii) On the instruction of the Business Unit Leader – Environmental Health.

9.0 RISK MANAGEMENT

9.1 In accordance with the Council's Risk Management Strategy, consideration had been given to the potential risks associated with the determination of this application. It is suggested that when reaching a decision it must be taken into account the need for

there to be a balance between the rights of the licence holder and any risks that there may be to the travelling public.

10.0 FINANCIAL IMPLICATION

10.0 There are no financial implications.

11.0 BACKGROUND PAPERS

Licensing Committee report and minutes of the meeting held on the 20th March 2008