

REPORT OF THE DIVISIONAL OFFICER
LICENSING, FOOD & SAFETY
TO THE GENERAL LICENSING COMMITTEE
22ND AUGUST 2014

TOWN POLICE CLAUSES ACT 1847 –
LOCAL GOVERNMENT(MISCELLANEOUS PROVISIONS) ACT 1976
HACKNEY CARRIAGE VEHICLE – TOYOTA YARIS

1. **INTRODUCTION**

- 1.1 A request in principle has been received from Mr Terrance Brophy for Members to determine the suitability of a black Toyota Yaris Icon Plus, 1400cc petrol engine vehicle for use as a hackney carriage vehicle to carry four passengers.

2. **POWERS RELATING TO LICENSING OF HACKNEY CARRIAGE VEHICLES**

- 2.1 The powers relating to the licensing of hackney carriage vehicles are contained in Section 37 and 38 of the Town Police Clauses Act 1847 which states:

Section 37 states – Hackney carriages to be licensed

The commissioners may from time to time licence to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers, (which in that case shall be deemed the prescribed distance,) such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit.

Section 38 states: -

What to be hackney carriages. Proviso as to stage coaches

Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance, and every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act; and in all proceedings at law or otherwise the term “hackney carriage” shall be sufficient to describe any such carriage:

Provision always, that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches,

shall be deemed to be a hackney carriage within the meaning of this Act.

And Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 states:

Licensing of hackney carriages.

(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 foregoing 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 such distinguishing marks as shall clearly identify it as a hackney carriage.

2.2 It is evident from Section 37 of the Town Police Clauses Act and Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 that the Council is not under a duty to issue a licence once an application has been made, they have a discretion.

3. **EXISTING HACKNEY CARRIAGE VEHICLE CONDITIONS / CRITERIA**

3.1 The Council has developed a highly visible, readily identifiable fleet which caters for all elements of the community including disabled people.

3.2 As a consequence the Council has adopted hackney carriage conditions that:

- * Vehicles will not be accepted for licensing on the first occasion unless brand new.
- * All vehicles must be the colour black
- * All vehicles must be right hand drive and have two doors each side of the vehicle.
- * All passengers shall have access to a door, capable of being opened from inside of the vehicle.
- * The engine capacity of the vehicle shall not be less than 1500cc.
- * All new vehicle licences will only be allocated to purpose built taxis i.e. London Type cabs or other suitably converted vehicles when new by an approved dealer, prior to delivery. These vehicles must be adapted for the carriage of passengers in wheelchairs.

3.3 Whilst all newly licensed hackney carriages are to be fully accessible the Council recognised the role of the saloon car. Therefore, owners of saloons have been allowed to renew their vehicle with a saloon or a purpose built vehicle.

4. **THE DEPARTMENT FOR TRANSPORT TAXI AND PRIVATE HIRE
VEHICLE LICENSING: BEST PRACTICE GUIDANCE: MARCH
2010**

- 4.1 The Department of Transport published its Best Practice Guidance in March 2010. This states:

“The legislation gives local authorities a wide range of discretion over the types of vehicles that they can licence as taxis or PHV’s. Some authorities specify conditions that in practice can only be met by purpose-built vehicle but the majority licence a range of vehicles.

Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it down to local taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new types to be readily taken into account.

It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi Purpose Vehicles, or to licence them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).”

5. **TOYOTA YARIS ICON PLUS**

- 5.1 The Toyota Yaris vehicle has been inspected by the Council vehicle examiner and is capable of carrying 4 persons however the engine capacity is only 1400cc and not the required 1500cc.

6. **CONCLUSIONS**

- 6.1 The Toyota Yaris vehicle does not comply with the existing hackney carriage vehicle conditions in that the engine capacity of the vehicle is less than 1500cc.

- 6.2 Whilst the Toyota Yaris Icon Plus is a saloon vehicle and not a purpose built taxi or adapted for the carriage of passengers in wheelchairs, had this been any other saloon vehicle over 1500cc and compliant with all other requirements, this matter would not have come before Committee for approval for use to replace an existing saloon vehicle or be used as a spare car.
- 6.3 A Toyota Yaris Icon Plus vehicle will be available for Members to inspect at the Civic Centre on Friday 22nd August 2014.

7. **RECOMMENDATION**

- 7.1 It is recommended that after careful consideration of the detail of this report and hearing from Mr Brophy, Members determine whether to:
- a. Approve the Toyota Yaris Icon Plus vehicle for use as a hackney carriage vehicle to carry four passengers. OR
 - b. Refuse the Toyota Yaris Icon Plus vehicle for use as a hackney carriage vehicle to carry four passengers giving full reasons as to why it is not considered suitable.

The Licensing Committee's instructions are requested.

Background Papers: Licence Application
Contact Officer: Kath Thomas
Extension: 5600
Legal Contact: Kath Clague