

To: GENERAL PURPOSES COMMITTEE		Subject: RATIONALISATION OF TAXI AND PRIVATE HIRE VEHICLE LICENSING SYSTEMS - AREAS OF OPERATION NUMERICAL LIMITS PARTNERSHIPS
From: HEAD OF LEGAL SERVICES		
Date: 29 July 1996	Ref: WBK/MRP	

1. **INTRODUCTION**

Reference is made to Minute of the General Purposes Meeting of 6th March 1996, when Members were advised that further reports would be submitted for the purpose of rationalising the licensing systems of the four merging authorities. The purpose of this report and the following reports is to consider the major areas in respect of taxi and private hire licensing which require consideration, and to make recommendations.

2. **Areas of Operation (Taxis and Private Hire Vehicles)**

- 2.1 There are presently four areas of operation for taxis and private hire vehicles within the North Lanarkshire area. For convenience, these are referred to as the Motherwell, Monklands, Cumbernauld & Kilsyth and Strathkelvin areas. Licences issued by the former authorities in respect of these areas will all have expired by 31st March 1999. At present and in terms of the Minute of 6th March 1996, renewal applications are being treated as applications for the renewal of the existing licence and are therefore being restricted to only one of the four operating areas.
- 2.2 Technically, applications for new licences could be made in respect of the whole of the North Lanarkshire area. In practice the trade have been applying on an area basis, but if they have applied on a Council wide basis the grant has been restricted to a particular area to accord with the decisions made at the 6th March 1996 meeting.

A Policy decision should now be taken on whether Licences should be granted on a Council wide basis or restricted to zones.

Three options are suggested for consideration:-

- (i) **To introduce a general policy guideline of restricting new grants for the four types of licence, i.e. taxi, private hire, taxi drivers and private hire drivers to only one of the present four operating areas.**

If this option is considered the most appropriate, Members may however consider that the former Strathkelvin District area is too small and that there may be merit in combining it with either Cumbernauld & Kilsyth or the Monklands area.

- (ii) **A policy guideline of granting new licences for the whole of the North Lanarkshire area, but with a restriction as to the use of taxi ranks to those operators/drivers of a particular area.**

In practice, this would mean that a taxi driver could ply for public hire throughout the whole of the North Lanarkshire area, but would only be entitled to use the taxi ranks in his home base area. Restriction on the use of ranks would not apply to private hire vehicles which are not allowed to ply for public hire.

- (iii) **A general policy of granting new licences for operation in the whole of the North Lanarkshire Area with no restriction on the use of ranks.**

Elements of the trade may resist any move towards de-zoning and consultation would therefore be desirable.

2.3 Recommendation

- (i) **That the Committee adopt a preliminary view on areas of operation based on one of the three suggested options or such other option as the Committee may decide. For consultation purposes, the second option is recommended.**
- (ii) **That the Chief Constable and Trade Representatives be consulted and meetings arranged between them and Officers in co-operation with the Convenor and Vice-Convenor and a report be submitted to a further meeting of the Committee with recommendations.**

3. Limits on the Numbers of Taxis (Taxis only)

- 3.1 In terms of the 1982 Act, a Licensing Authority can refuse to grant a new taxi licence if they are satisfied that there is no significant demand for the services of taxis in their area which is unmet. These provisions resulted in all the merging authorities operating policy guidelines which had the overall effect of limiting the number of taxis in their area. The current taxi numbers are - Motherwell 182, Monklands 239, Cumbernauld & Kilsyth 66 and Strathkelvin 73. These were the numbers of taxi licenses issued by the former authorities which, in the opinion of those authorities, were sufficient to satisfy the demand for taxi services in their area. In terms of the Act, no limit can be imposed in respect of private hire vehicles.
- 3.2 There is no specific statutory onus on an authority to regularly review these limits as long as each application for a new grant is treated on its merits and the applicant is afforded the opportunity of being heard and if necessary, to provide evidence of any unmet need. As this issue is linked to the foregoing issue on areas of operation it is suggested that the existing numbers be used as a working presumption of meeting present demand, certainly until the trade consultation takes place when the General Purposes Committee can consider a recommendation on the subject, if necessary.
- 3.3 In addition it would be prudent to make provision for a survey to assess any unmet demand, to be used in any future litigation on taxi numbers and recommendations will be made at the appropriate time as part of budgetary submissions for the coming financial year.

3.4 Recommendation

It is recommended that the existing numbers be used as a working presumption of meeting present demand meantime and remit consideration to the Head of Legal Services in co-operation with the Convenor and Vice-Convenor for recommendations and reporting back in due course.

4. Partnerships and other forms of licence holding (Taxi and Private Hire)

- 4.1 In respect of taxi licences and private hire vehicle licences, the licensing authority is obliged to consider applications, made by partnerships or natural persons. All the merging authorities issued licences to both partnerships and natural persons.

- 4.2 Whilst the grant of licences to natural persons has never caused any particular problems, the grant of licences to partnerships has. Generally, any person can, with another person, form a partnership. On production of a suitable partnership agreement, the former authorities would process such applications in the name of that partnership. If the individual partners were deemed to be suitable persons, then provided there was no reason to refuse, the licence would be issued in the name of that partnership.
- 4.3 There is no provision in the licensing legislation for the transfer of licences from one person to another (be it a natural person or a partnership). However, what all the former authorities found, was that when a licence was granted to a partnership, the licence could effectively be transferred within that partnership. For instance, in a partnership of two partners, there is nothing to stop one partner resigning from the partnership and the remaining partner assuming a new partner to the partnership. The partnership would remain exactly the same, but the individual partners could change. As long as the individual partners at any one time were deemed to be suitable people, then the licence would remain in the partnership's name. Whilst the former Councils at all times had control in so far as any new partner would be examined as to his suitability, control was lost in so far as taxi plates were very rarely returned to the Council and the former authorities found evidence that substantial sums of money were changing hands to "buy into a partnership". This had the effect of allowing some form of "market" in the plate, the benefit of which would be transferred. No problems were found with regard to private hire licences as there are no limits on their numbers.
- 4.4 Monklands District Council was so concerned about the practice that in 1993, they commissioned a report from the Principal Auditor. The Auditor's findings were not surprising, in that after consulting with the trade, he confirmed that money was changing hands at a rate of between £7,500-£10,000. It was also found that whilst licence holders accepted that the licence belonged to the District Council as long as it was in their name and under their control, then if it attained a market value, they thought that they should be able to avail themselves of any opportunity which arose in relation to the value of the licence.

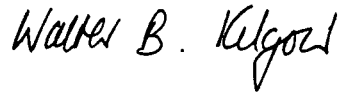
Motherwell were also aware of the partnership problems and evolved a policy of granting Licences not in the name of the partnership but in the name of the individual partners. Subsequent changes to the partners holding the Licence were allowed but only if any new partner was a member of the same family as the original partner(s). This policy does not appear to have been subject to challenge by appeal to the Sheriff Court.

Cumbernauld and Kilsyth granted Licences in the name of the partnership and not the individual partners. When a new partner was brought in they required the partnership to apply for a variation of the terms of the Licence, a step not strictly necessary unless the Licence is held in the partners names. Strathkelvin placed no restrictions on partnerships but were aware of the trade in Licences amongst them.

- 4.5 It is desirable that any future policy should allow the Council greater control over the trade in Licences within partnerships. Any such policy however can only be applied fully in respect of fresh Licence issues. The trade in Licences will continue to some extent so long as there are current Licences held by partnerships as opposed to being held by the individual partners. It is recommended that future new grants be made in the name of the partners of a partnership and not the partnership itself. ie the method evolved by Motherwell. It should be borne in mind that should a partnership insist on the Licence being in the name of the partnership, they might well successfully appeal against this practice.

4.6 Recommendation

In connection with applications for Licences made by partnerships to introduce a practice of issuing the Licence specifically in the joint names of the partners. As a further safeguard to make it a condition of the Licence that any change to the holders of the Licence would require to be made by way of a request for formal variation to the Council.

Handwritten signature of Walter B. Kilgour in black ink.

Head of Legal Services