

REPORT

To: GENERAL PURPOSES COMMITTEE		Subject: REVIEW OF TAXI AND PRIVATE HIRE LICENSING - AGE LIMITS AND VEHICLE COLOURS FOR PRIVATE HIRE CARS
From: DIRECTOR OF ADMINISTRATION		
Date: 13 December 2004	Ref: WBK/KH	

1. PURPOSE OF REPORT

1.1. The purpose of this report is to advise the Committee of the outcome of the consultation process with private hire car operators on age limits and vehicle colours and to present options for consideration.

2. BACKGROUND

2.1. Members are aware that the Council has commenced a review of taxi and private hire licensing. On 27 October 2004 the Committee decided that non-purpose built taxis must be a maximum of five years of age when the vehicle is presented in the context of an application for grant or renewal of a licence or substitution of vehicle. The Committee also ordered a consultation on purpose built taxi age limits which will take place in the near future. Separately, the Committee ordered a consultation with private hire operators on age limits for private hire cars and a proposed prohibition on white private hire cars in the Council's South licensing area.

2.2. By letter dated 10 November 2004 the Council wrote to all 1176 private hire operators on these issues seeking their views. A copy of the letter forms Appendix A to this report. Separately, notwithstanding traditional difficulties with private hire operators forming representative associations, the Council encouraged personal representations from "associations" and a lengthy meeting took place on 9 December 2004. Present at that meeting were the Convenor and Vice Convenor of the Committee, Head of Legal Services together with a number of his staff and various private hire trade representatives. Those trade representatives were a mix of radio company owners and independent private hire associations. On the issues that were being discussed, the Council representatives assessed that the private hire trade members present were properly representative of the private hire trade's general views, with the exception of those, albeit relatively small in number, who had expressed support for an age limit.

2.3. For the purposes of the debate, it was proposed that the same age limit be applied to private hire cars as that to be applied to non-purpose built taxis. That age limit is that the car may be no more than five years old when presented in the context of an application for grant of a licence, at the renewal due date or when presented as a substitute vehicle in respect of an existing licence. That age limit gives a maximum potential operating age of eight years, bearing in mind the 3-year licensing cycle.

2.4. The private hire trade is strongly opposed to the introduction of an age limit on private hire cars. Certain trade representatives expressed a fall back position that if an age limit is to be applied it should be different from that proposed by the Council. That will be discussed later in this report. On the issue of opposition to an age limit per se, there are a number of reasons given for that, as follows.

- 2.5. Firstly, it is suggested by the trade that the proposed age limit is not a financially viable option for many of them. There is a wide range of vehicles used for private hire purposes and, given the varying ages of those vehicles, there is also a wide band of expenditure that any given operator will fall into when it comes to buying a private hire car. The trade say that many operators are operating on margins that allow them to spend £1,000 or £2,000 on a vehicle and run it for perhaps two or three years until it is effectively no longer of any use and maintenance is no longer economically viable. Trade members point to overheads such as insurance, road tax, car maintenance and radio rental fees. The trade members say that they cannot sustain further overheads. On that note, in terms of overheads, one private hire operator with a substantial interest in the local private hire trade recently indicated that the insurance and general running costs for private hire cars and taxis are practically the same. Equally, in terms of overheads, it is interesting to note that one of the most significant factors is the cost of renting a radio from a radio system. The cost of that rental does vary, however a considered assessment would place the cost of radio rental generally between £1,500 and £3,000 per annum. That makes interesting reading against the levels of expenditure advocated by the trade for cars to last 2 or 3 years.
- 2.6. There was much discussion with trade representatives on general standards. That discussion centred around the debate as to whether an age limit is an appropriate mechanism for improving and maintaining standards. One school of thought is that a poorly maintained newer car can be in worse condition than a well maintained older car. Equally, the trade point to the fact that certain prestige vehicles such as Mercedes have a greater build quality and therefore remain of a reasonable standard for longer than a more "typical" saloon. Another school of thought is that mileage is a more accurate measure of the standard of the vehicle but again that can depend very much on the conditions in which the car is used. Members may be familiar with the concept of high mileage cars being described as having covered mainly "motorway miles" which is generally intended to indicate that the car will have suffered less wear and tear than if it had covered the same mileage in town use. On that note, certain private hire representations have pointed towards there being a differential between the amount of mileage covered by private hire cars and that covered by taxis. From an examination of Council records the position appears to be that, whilst there is not a vast difference in mileage, taxis do tend to travel a greater distance over the course of the year than private hire cars. Certain private hire operators have sought to suggest that private hire operators should have a different age limit applied to their vehicles to that of taxi operators due to the fact that there is less wear and tear on private hire cars in comparison with taxis.
- 2.7. An important aspect of the debate is the desirability of setting of standards by the Council and what the standards should be. It is important to note that the Civic Government (Scotland) Act 1982 specifically empowers local authorities to set standards for vehicles to be used as taxis and private hire cars. Many representations received from the trade have suggested that the standard should be "roadworthiness". In fairness to the representatives present at the meeting, there was general acceptance that something greater than general MOT roadworthiness should be the standard.

- 2.8. Fundamentally, there was agreement on the part of private hire representatives that "shabby" vehicles should be unacceptable. However, there was much debate over the fact that "shabby" or unacceptable vehicles is very much a subjective standard given that one person's view may be different to another person's view. Whilst there must always be an element of discretion in the inspection and testing of vehicles, it is also fair to the taxi and private hire trades to introduce as much certainty as possible to vehicle specifications in order that they may reasonably sure as to the standard expected of them.
- 2.9. Equally, the argument that a poorly maintained newer vehicle can be in worse condition than a well maintained older vehicle has a certain validity. That said, that is again very much a subjective area and it is likely to be the case that well maintained older vehicles will be the exception rather than the rule. Accordingly, age limits can potentially be viewed as a pragmatic way to ensure a suitable standard is maintained, as generally speaking a younger vehicle can be expected to be in better condition than an older vehicle.
- 2.10. It has also been suggested that a more frequent or stringent testing regime would improve standards. However, it has to be said that testing is merely the application of the standards that are set in the first place. It was felt that throughout the consultation the trade displayed a level of misunderstanding of the role of vehicle testers. The issue of an age limit and the type of vehicles that may result from an age limit goes to the fundamental root of what the standard should be. Testing simply ensures that the standards set are adhered to. It is not for the Council's testers to set the standards.
- 2.11. There was much discussion at the meeting with the trade on the issue of vehicle safety. Council representatives made it clear that the most important standard at stake was safety of fare paying passengers. There was a clear acceptance from trade representatives that vehicle safety standards are ever developing and that, generally speaking, the younger the vehicle the safer it will be. Newer vehicles are awash with safety features and from the point of view of both driver and public, this is most welcome. There was some discussion about alternative methods of ensuring certain safety standards such as the specific prescription of certain mandatory features such as side impact bars or ABS (Anti-Lock Braking System). Trade representatives felt that such a standard would be difficult to apply given the proliferation of new safety features and the complexities that can arise from whether particular vehicles have the particular safety feature etc. Council representatives tended to agree, which leaves safety as the most important issue that would be improved across the board by the imposition of an age limit.
- 2.12. Insofar as the financial implications of an age limit are concerned, there are many variables involved. As a starting point, it is probably fair to say that compliance with a five year age limit could readily be achieved by expenditure of up to £5,000. That said, the figure cannot simply be looked at in isolation. The way that such an age limit would operate would mean that an operator could spend up to £5,000 on a vehicle and be able to run it for three years maximum. Whilst there are variances, most operators probably run vehicles for two or three years but for many the initial outlay is presently around the £1,000 or £2,000 mark. Obviously in those circumstances a £5,000 outlay would be an increase with the operating life remaining unchanged. On the other hand, a more expensive vehicle could be bought at, say, just under two years old and run for two licensing cycles, namely six years. The increased cost of the vehicle could, in terms of regular overheads (i.e. the monthly payment), be offset by the increased period over which the vehicle could be paid. A typical repayment figure for £5,000 over three years in the current market would be around £150 per month and figures of £7,500 and £10,000 could be repaid over five years for the sums of £145 and £195 per month respectively. Against that

background, private hire representatives suggest that some operators require to buy vehicles with cash as they find it difficult to get finance due to being classed as self employed, living in a blacklisted area or for other reasons. Fundamentally, the amount that any individual operator can afford to pay and the manner in which he pays are matters that are dependent on personal circumstances. In terms of vehicle costs, the Committee may have regard to factors such as members' knowledge of the local area and its economy. It is also worth noting that, whilst it is dependent on the way that the vehicle is financed, some operators have pointed to the fact that they may always be paying vehicle payments. The example given is that some operators spend a certain amount on a vehicle, run it for two or three years and then have a year or two payment free in order to save up a deposit for another vehicle. However the suggestion from the trade is, for example, that a £5,000 vehicle financed over three years will only be good for three years in respect of a five year age limit policy and therefore the financing of vehicles would be perpetual given that they would have to be replaced at a cost of up to £5,000 every three years.

- 2.13. Insofar as vehicle colours are concerned, there is a policy decision that all taxis in the South Licensing area are to be white. In the Central Licensing area taxis are black and private hire cars are prohibited from being black. In the North Licensing area there is no question of a colour distinction due to the fact that all taxis are of the purpose built variety. The residual issue that arises is whether private hire cars in the South Licensing area should be prohibited from being white. The general response to the consultation on the part of private hire car operators has been to suggest that there should be no prohibition on private hire cars being white. The general justification given for that is that taxis carry a taxi sign and that creates a sufficient distinction between the two types of vehicle. Some respondents point to the fact that prohibiting private hire cars from being white creates a smaller market from which to choose private hire cars. It has to be said that the argument carries much greater weight in the taxi arena where there is one colour for non-purpose built taxis in each of the Central and South licensing areas.

3. ISSUES FOR CONSIDERATION

- 3.1. The principal issue for consideration is whether it is appropriate to have an age limit on private hire cars. The issue is not a novel one for local authorities. 17 of the other 31 local authorities presently operate some form of age limit on taxis and private hire cars. On balance, bearing in mind the issues considered in this report and with particular regard to the issue of safety, it is suggested that it would be appropriate to apply an age limit to private hire cars.
- 3.2. If Members are minded to apply an age limit to private hire cars, the issue of what that age limit should be then arises. There are various ways in which an age limit could be applied. The two principal aspects to an age limit are related to entry and exit from the fleet. Entry essentially relates to the maximum age at which a vehicle may be when presented for licensing and exit is simply the age at which the vehicle must be withdrawn from the fleet. The application of entry and exit age limits or a combination of both has an impact on maximum potential operating lives of private hire cars. For example, simply having an entry age limit, for example 5 years, would mean that a vehicle aged less than 2 years when first presented could be operated for two 3-year licensing cycles given that it would be under 5 years old when presented for the second time. However, a vehicle between 2 and 5 years old could only be run for one 3-year licensing cycle as it would be more than 5 years old at the first renewal of the licence. A number of options are available to the Committee in respect of age limits and these are detailed below:-

3.3. 5 Year Entry Age Limit

The effect of this age limit is detailed in the example above. It is the age limit that has been applied to all non-purpose built taxis and which will come into effect for taxi operators on 1 January 2006. The effect of the age limit is that vehicles under 2 years old are good for two 3-year licensing cycles and vehicles over 2 years old and under 5 years old are good for one 3-year licensing cycle. The effect of the age limit would be that there would be no vehicle over 8 years of age operating for private hire purposes.

3.4. 7 year Entry Age Limit

A number of people who responded to the private hire consultation suggested an entry age limit of 7 years which would give a maximum potential operating life of 10 years. The age limit operates in very much the same way as the other entry age limits whereby vehicles under 1 year old could be operated for three 3-year licensing cycles, vehicles between 1 and 4 years old could be operated for two 3-year licensing cycles and vehicles between 4 and 7 years old could be operated for one 3-year licensing cycle. It is worth noting that the majority of vehicles in the private hire fleet currently fall within this category. For illustration, this category if applied now would presently allow for vehicles back to 1994/95 to be operated which would be L or M prefix registration.

3.5. 8 Year Exit Age Limit

Some members of the private hire trade advocate an exit age limit only. This operates by allowing a vehicle of any age below the exit age limit to be presented on the basis that it will only be permitted to operate until it reaches the exit age limit. The proper way to do this is to issue restricted term licences. For example, should there be an exit age limit of 8 years, any vehicle below that age could be presented for licensing. If a vehicle of 7 years old was presented then a licence would be issued until its 8th birthday only and at that stage the operator would require to apply for renewal of his licence and present a suitable vehicle.

3.6 10 Year Exit Age Limit

Like all other age limits, this age limit simply operates by removing private hire cars when they reach 10 years old. This was an age limit advocated by a number of private hire representatives at the meeting with the trade. In fairness to those who suggested this age limit, it is proper to record that their primary position was that there should be no age limit on private hire cars but, as a fall-back, there was a suggestion that if an age limit was deemed necessary, then an exit age limit of 10 years should be applied. All forms of exit age limit work in the same way.

3.7. With exception of the 5 year entry age limit, all of the other age limit categories in this report can properly be considered to be less onerous than the age limit that has been applied to the taxi fleet. If Members are minded to apply a different age limit to private hire cars, then the issue arises as to why such an approach may be taken. The only real basis for such an approach is in the issue of vehicle mileage and thereby wear and tear. The figures for the North Lanarkshire Area do bear out that private hire cars on average tend to travel less miles per year than taxis. The differential is not vast and, of course, there are many variations according to the working practices of individual operators. For example, some private hire car operators merely operate for the lucrative weekend shifts and thereby will travel far less miles than their full-time counterparts. However, on a general sampling, it can be said that private hire cars do tend to travel less miles than taxis.

- 3.8. An exit only age limit is not attractive. It would allow for vehicles just under the age limit to be presented and an exit age limit of 10 years would have a minimal impact on the current fleet. Equally, for various reasons, it is administratively burdensome. If Members are to favour an exit age limit only then it is suggested that licences would only be granted to the stage at which the vehicle reached the age limit regardless of whether that is less than the 3 years that licences are ordinarily granted for.
- 3.9. An entry age limit is more attractive as it allows for a graded fleet given that operators must meet a reasonably high standard in the first instance but are then able to operate the vehicle presented for a number of years. It is suggested that the most viable and appropriate options are to apply an entry age limit of either 5 years or 7 years. If applying an entry age limit of 5 years that will have the effect of creating the same age limit as that which has been applied to taxis. Applying an age limit of 7 years will create a differential between the two trades but at the end of the day they are distinct trades and, bearing in mind the mileage factor, the Committee may draw the distinction if so minded.
- 3.10 Insofar as the taxi trade is concerned, they require to comply with the new age limit rules by 1 January 2006. However, the relatively early implementation of that age limit is on the basis that the taxi policy was an amendment of the previous purpose-built policy whereby most operators were going to change vehicle at the end of 2005 anyway. Private hire operators have only been recently made aware of the potential for an age limit for private hire cars and therefore it is suggested that a longer transitional period is appropriate to allow them to gear up for the change. It is suggested that the change be effective for all licences from 31 January 2008 and all licences renewed prior to that date be time limited to 31 January 2008. If anyone is to be caused difficulties by the existence of financial agreements which tie them in later than the date on which the policy would take effect, then it is suggested that they could be granted an exemption from compliance with the policy until the end of those financial agreements. The financial agreements would require to be entered prior to 8 September 2004 which was the date that the potential for the introduction of an age limit was intimated to all private hire operators and by which letter they were encouraged to contact the Council prior to changing vehicle. It is suggested that any age limit policy would have immediate effect in respect of new applications for private hire car licences.
- 3.11 In respect of vehicle colours, it is suggested that, notwithstanding the existence of the taxi sign, a colour distinction is another helpful way to distinguish between taxis and private hire cars. That is also against the background that there are continual complaints on the part of taxi drivers that private hire car drivers illegally ply for hire. The colour distinction would complement the distinction created by the taxi sign and would be helpful for enforcement purposes also. It is suggested that the comments from private hire operators against the prohibition, whilst validly made, do not carry sufficient weight to lead to a conclusion that there should be no such prohibition. It is suggested that the colour distinction would be implemented on the same timescale as that of age limits and that it be immediately effective in respect of new applications for grant of licences.

4. CORPORATE CONSIDERATIONS

- 4.1. The issues contained in this report impact on the Council's commitments to ensuring high standards of public safety and public service in the services falling within its regulation.

5. RECOMMENDATIONS

- 5.1. The Committee is asked to agree to set an entry age limit of 5 years calculated from the date of first registration to the date of application for grant of a licence, scheduled date of renewal of a licence or application for substitution of a vehicle. The Committee is also asked to agree that the transitional period be as detailed in paragraph 3.10 above.
- 5.2. The Committee is asked to agree to introduce a prohibition on white private hire cars in the South Licensing area to take effect on the same timescale as that of age limits.

Walter B. Kelgou

W. **Director of Administration**

Members seeking further information on the contents of this report are asked to contact Kenny Hannaway, Senior Solicitor (Licensing) on Extension 2214.