



CHELTENHAM

BOROUGH COUNCIL

Notice of a meeting of Licensing Sub-Committee - Miscellaneous

Wednesday, 5 January 2022

6.00 pm

Council Chamber - Municipal Offices

Membership	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Alisha Lewis, Diggory Seacome and Jo Stafford
Officers:	Louis Krog, Vikki Fennell and Jason Kirkwood

FILMING, RECORDING AND BROADCASTING OF COMMITTEE MEETINGS

This meeting will be recorded by the council for live broadcast online at <http://www.cheltenham.gov.uk> and www.youtube.com/user/cheltenhamborough. At the start of the meeting the Chair will confirm this.

If you make a representation to the meeting you are consenting to the use of those sound recordings for broadcasting and training purposes.

Agenda

1.		APOLOGIES	
2.		DECLARATIONS OF INTEREST	
3.		MINUTES OF THE PREVIOUS MEETING	(Pages 3 - 10)
4.		ITEMS THE CHAIRMAN DETERMINES URGENT	
5.		APPLICATION FOR A HACKNEY CARRIAGE VEHICLES PROPERTIES LICENCE Report of the Case Officer	(Pages 11 - 16)
6.		APPLICATION FOR A HACKNEY CARRIAGE VEHICLES PROPERTIES LICENCE Report of the Case Officer	(Pages 17 - 22)
7.		APPLICATION FOR A HACKNEY CARRIAGE VEHICLES PROPERTIES LICENCE	(Pages 23 - 28)

		Report of the Case Officer	
8.		CONSULTATION ON REQUIREMENT TO PARTICIPATE IN SCHEMES TO PROMOTE BETTER AVAILABILITY OF LICENSED WHEELCHAIR ACCESSIBLE VEHICLES (WAVS)	(Pages 29 - 42)
9.		<p>LOCAL GOVERNMENT ACT 1972 EXEMPT INFORMATION</p> <p>The committee is recommended to approve the following resolution:-</p> <p>“That in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:</p> <p>Paragraph 1; Information relating to any individual</p> <p>Paragraph 2; Information which is likely to reveal the identity of an individual</p>	
10.		<p>APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE</p> <p>Report of the Case Officer</p>	(Pages 43 - 54)
11.		BRIEFING NOTES	

Contact Officer: Claire Morris, Democratic Services, 01242 264130
Email: democratic.services@cheltenham.gov.uk

Licensing Sub-Committee - Miscellaneous

Wednesday, 3rd November, 2021

6.00 - 8.20 pm

Attendees	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Alisha Lewis, Diggory Seacome and Jo Stafford
Also in attendance:	Vikki Fennell and Jason Kirkwood

Minutes

1. APOLOGIES

There were none.

2. DECLARATIONS OF INTEREST

Members had attended a site visit at the premises on the day of the meeting in the presence of the Licensing Officer.

3. APPLICATION FOR A RENEWAL OF A SEXUAL ENTERTAINMENT VENUE LICENCE RED APPLE ASSOCIATES LTD.

The Senior Licensing Officer presented the report of the Licensing Team Leader as published.

In reply to members questions, the Officer confirmed that:

- This application did not relate to the granting of permission for any objects on the highway.
- Cheltenham Borough Council had reviewed its policy on the distribution of flyers and there was also a condition on the application restricting distribution of leaflets.
- He was unaware of any complaints to the council about this venue during the past 5 years, just one complaint in 2017 about lone working of a member of staff.
- A sexual assault at a venue in Birmingham, referred to in the objections, had no connection to the applicant for this licence, nor any relevance to the application.

In reply to a question from Objector, Eileen Bailey, as to whether a SEV licence could be revoked within the year once granted, the Officer explained that a venue needed a premises licence in the first instance and that in serious cases the Police had the power to ask a Council to review a premises licence and revoke it.

Another Objector, Maggie Stewart from GRASAC, asked for clarification as to whether the Chief of Police was informed or whether he did not reply in the time

frame. The Officer confirmed that the Police were sent an email informing them that this application had been received.

Objector, Patricia Grieve, queried that this application was requesting a licence from 6pm, which deviated from Council policy. The Officer confirmed that there was National and local guidance on granting licences and that although the Council's default position was to grant licences from 8pm to 4am, each application was considered individually and policy could be departed from if the committee so agreed.

The Chair invited the four Objectors to address the committee.

Objector, Patricia Grieve made the following points:

- There should be equity of access across the town and many women of all ages avoided the town centre when races were on.
- From reading the Equality Act, all people should feel that they can walk wherever within the vicinity of the premises and not being afforded this opportunity was concerning.

In reply to a Member question about when feeling uncomfortable in the town and whether it was race week in general or how specifically this was related to this venue, the Objector continued that she could not claim it was this particular venue, but that during race week the behaviour of people during the daytime on the bus near the train station was inappropriate and some of the conversations, although not specifically related to sexual entertainment, had a disregard to women and made people uncomfortable.

Objector, Eileen Bailey made the following points:

- In the evening during race week it did not feel safe at the bus stops by the Two Pigs.
- There was a belief that although the club was not supposed to be advertised it was in the Regent Arcade.
- When people left a sexual entertainment venue that had been open from 6pm, they were usually drunk and possibly sexually excited therefore there was a risk that abuse could take place in the home.
- People should feel safe whoever and wherever they were and there shouldn't have to be concern about people in their own homes.

In reply to a question about a sexual assault incident, Eileen Bailey stated the assault had not been reported to the Police on that occasion and that she would not know if the perpetrator had come from the Two Pigs.

Objector, Maggie Stewart, Chief Executive of GRASCA, made the following points:

- Was aware that could only object on two areas, namely public sector equality duty and sensitivity of the local area.
- Cheltenham Borough Council had commissioned a report on the safety of women at night and the results were very concerning in that 75% of women said that they didn't feel safe and this rose during race weeks
- The question of whether this related specifically to this venue could not be answered.

Page 5

- Hands tied with anonymity so difficult to identify incidents to this venue.
- GRASAC has worked with Cheltenham Safer Partnerships on the safety of women at night, so Council at odds and going in two different directions.
- Without permission a venue can have one night of sexual entertainment a month; giving permission grants an extra six evenings of sexual tourism.

In reply to member questions, Maggie Stewart stated that the belief was that there would be an increase in harassment and assault if the licence was granted. Conversely there was also the belief that if the licence was not granted, it would go down. She also stated that women did not report crimes against them as it was and that was a worry.

The Rector of Cheltenham, Richard Coombs, spoke in objection. He stated that:

- It was highly inappropriate in such close proximity to a place of worship.
- There was no respect to women, this activity objectified women and many women in his congregation felt unsafe and did not come into the town in race weeks.
- The amount and type of rubbish that was left in the graveyard was a big concern.
- The granting of the licence was in the opposite direction to work that was being done with the Council to make this area a nicer and a safer place.

In reply to questions, Rev Coombs commented:

- The litter in the graveyard could not be specifically attributed to the Two Pigs as there was no way of proving where the rubbish came from but was worse during race week.
- There was not a cross over between church services and the opening of the Two Pigs, however the point was not the time of the services, but people feeling unsafe.

The Chair acknowledged and thanked GRASAC for their work and thanked the objectors for coming forward.

The Chair invited the Solicitor for the Applicant, Mr Unis, to address the committee. He confirmed this was a renewal application for a Sexual Entertainment Venue Licence for the dates and times in March 2022 as set out in the report. Mr Unis stated the Two Pigs had had a SEV licence since 2017 and that on this occasion the application was for a reduced number of dates. Mr Unis made the following points:

- The applicant had an impeccable record with no issues and had been praised for the way he operated his business.
- The applicant was part of the Cheltenham night safe scheme to keep its residents and visitors safe.
- This was a legitimate form of entertainment in the retail and leisure industry that the Government allowed, thus the Council would be granting this licence within the law.

Page 6

- Most objections received were on moral grounds and these could not be taken into consideration. Objections had to relate to mandatory or discretionary grounds for refusal.
- A key point was that no objection had been received by the Police. The Police did not attach any blame to the venue or applicant and there were no facts or figures that had been linked directly to the Two Pigs.
- No formal objection was received by the Police and Crime Commissioner although his comments had been aired on local media.
- There were no mandatory grounds for refusal.
- He did not feel the grounds for discretionary refusal applied as the premises was located within the Council's designated permitted area and there was no limit on the number of SEVs in this area. In addition the Council had previously granted this licence.
- There were unlikely to be children and families in the vicinity as it was a night time industry.
- Representations from the church were not attached directly to the venue or the applicant.
- The church yard was subject to anti-social behaviour all year round and when the applicant operated with increased security there was actually less anti-social behaviour.
- At the time of the site visit at 3pm that afternoon, his client wished to point out that the church was closed.
- There had been no damage to church property during the time his client had operated the Two Pigs.
- He appreciated this was a sensitive issue and that there would always be objections, but his client should not be treated unfairly and be subjected to abuse on social media. His client should be allowed a fair hearing, reiterating the Government allowed this entertainment.
- Sexual bullying could happen anywhere and if someone was drunk or sexually aroused, this was not the fault of the applicant.
- There was no link between sexual entertainment and sexual attacks on women.
- Regarding the Equality Act, male entertainment takes place and no objections are raised.
- The applicant takes equality seriously and staff are told they cannot discriminate. The applicant also has an anti-slavery policy in place and a refusal of entry log.
- The safety of performers was important and they were given the option of transport to and from the venue. They have a separate locker room and there is a house mother providing support and ensuring their welfare.
- The applicant encouraged staff to keep the outside area clean and tidy.
- His client employed 14 security guards and 4 stewards during this period and there was no link to the applicant at all regarding people feeling unsafe.
- Earlier opening times had been asked for to assist with crowd management and to prevent long queues forming outside the venue.

In summing up the Applicant's Solicitor pointed out that the request for renewal was for less dates than the current licence, that the applicant was experienced, had an impeccable record and would adhere to the strict conditions attached to the licence as he knew any breach would jeopardise the future. He said that by

granting the licence, the committee were ensuring it would be regulated, Police would know where it was taking place and that the safety of the dancers and individuals in the pub could be guaranteed. If it was not granted then there would be no control.

The Chair agreed with the Applicants' Solicitor about the way the Police and Crime Commissioner had expressed his concerns on the matter using the media and not responding with his objections in the correct way. The Chair felt this was not a fitting way for a member of his office to behave and members were advised to disregard anything they may have heard on the media from him.

In reply to questions from members, the Applicant's Solicitor confirmed that:

- The reasons for the earlier opening times were related to crowd management. Steve Burrows, the representative for Red Apple Associates Ltd, explained that the SEV licence had always been from 6pm to 5am until 2 years ago when it was believed that by opening at 8pm it might reduce the volume of racegoers in the area. This was tried but in view of the large numbers of people that were turned away from the premises at 6pm, the Police and Licensing Officers agreed it was in public safety to move people off the street and into the venue and a 6pm opening would solve this issue.
- Stringent measures were in place to ensure performers were not trafficked. Mr Burrows explained that there was a vetting process and all ID was reviewed and checked. All performers were pre-booked, many had worked for them for many years, rules and regulations were given, wrist bands issued, there was an area for rest and changing for the performers and there was a house mother.
- Regarding the safety of performers whilst performing, it was explained that the customer and performer went into a private dance booth, there were booth walkers who checked on the performers and the activities and when the time was up the customer left first.
- People did not hang around in the churchyard on leaving the premises as no one leaving the venue was allowed to enter the churchyard, all clients had to exit onto the High Street and that area was patrolled in the evening.
- The venue did not discriminate on gender and kept a refusal log. A growing industry was couples frequenting the premises so they did have more females in the venue.
- The premises was not wheelchair accessible as it was a very old listed building with a 19th century staircase.
- The use of cameras on mobile phones was prohibited and if they were used, customers would be asked to delete the images and asked to leave the venue. The venue had many signs about prohibiting photography.
- Regarding the Council's report on the safety of women and the night time economy, and alleviating fear in women near the venue, the applicant suggested he would invite people to the area to see how it was managed and protected and to show it was a safe environment. Mr Burrows questioned the way the media promoted and portrayed it and felt women's perception would change if they saw how the operation was run.

Page 8

- The area patrolled by the security team from the venue would feel safe, but it was difficult to patrol too far along the High Street for insurance reasons. The earlier 6pm start time would help alleviate any fear regarding large crowds of people congregating.
- The capacity for customers was 300, but they usually operated between 200-220.
- There were 16 CCTV cameras normally on the premises covering the inside of the venue, the outside and garden, with an additional 16 cameras put in which covered the booths, admin and all internal areas.

There being no further questions the Chair moved to debate and members made the following points:

- The quality of the objections was appreciated and members were mindful of and understood the concerns.
- The vicinity of the churchyard was an important issue. However, there was no exit into the churchyard from the venue and also no cross over with evening services.
- An important point was that the Police had not raised an objection. Nothing had been attributed to this venue during race week, although a member did realise not everyone reported matters to the Police.
- The policy on reducing advertising and distribution of leaflets would make women feel less intimidated.
- Important that all people should be able to access the venue and only refused if they behaved in an inappropriate way.
- Happy with the way performers were looked after, with the measures to ensure they were not trafficked and that there was a house mother.
- A member had previously seen the venue in operation and felt the applicant did look after the performers working there. Performers signed a contract stating that they were not coerced into working there and having spoken to some of the performers, the Member was happy they had been there under their own will.
- Happy that the venue had the Challenge 25 Scheme, as well as card chip and pin payments to protect customers.
- Premises could operate as a SEV under the exemption rule, but prefer premises to be licenced to protect its customers and performers and to have specific licenced dates.
- Happy that the venue has a good track record and satisfied that it is well run for the safety of everyone,
- The applicant has been transparent.
- Cannot appropriate any incident in other parts of the town to activities at the Two Pigs.
- Satisfied with the reasons for the 6pm opening.

The Chair summed up stating he was happy the Council and applicant had consulted lawfully. He continued that due regard had to be given to the fact the Chief of Police did not give any objections and that regarding any crime that has happened in the town none of it has been attributed directly to the venue or to the activity and the Police were best placed to provide this evidence. Regarding reasons for refusal none of the mandatory reasons were valid, and regarding discretionary grounds, only item d referring to the character and locality of area were of relevance and for the committee's consideration. He questioned whether this venue was being discriminated against when in fact there was a very high increase in the number of people in the town frequenting

the many bars and pubs in the area. Regarding safety, the Chair concluded that regulation and knowing where the activity was taking place, rather than it happening anywhere in the town, was the better of the two options.

There being no further comments or questions the Chair moved to vote on 8.6a of the report to grant the application.

FOR : 5

AGAINST : 0

ABSTAIN : 0

GRANTED unanimously

The Chair advised the applicant that the Licensing Team would be writing to them confirming the conditions and would explain the new condition in the updated SEV policy of providing certain additional items in the changing rooms.

The Chair assured members of the public that the Committee did take these matters seriously and that last time he wrote to the Home Office asking them to consider changing the law. He read out the reply to members.

4. BRIEFING NOTES

There were none.

5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION

There were none.

David Willingham
Chairman

This page is intentionally left blank

Licensing Sub-Committee – 5 January 2022

Application for a Hackney Carriage Vehicle Proprietor's Licence

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 The matter before Members is a little complicated as it reflects a situation not envisaged or discussed in the legislation. The Local Government (Miscellaneous Provisions) Act 1976 refers to the grant of a vehicle licence and stays silent on other application types.
- 1.2 In practical terms there are usually 3 types of vehicle licence application: a new application, a renewal and a replacement.
- 1.3 Where the council brings in a newly adopted policy that places new/ amended requirements on a vehicle proprietor - new applications must meet the policy quite quickly but there will be a transitional period to allow for existing licence holders to meet any new requirements by renewing their existing vehicle or replace it 'on a like for like basis' until the end of transitional period.
- 1.4 A new application must meet all requirements of the council for such an application when it is made to the council.
- 1.5 A renewal or replacement application will usually benefit from 'continuity rights' in respect of an existing licence during the transitional period and this will be detailed in the policy itself.
- 1.6 Members are asked to consider whether they would grant a potential vehicle application, and decide whether they would treat it as a renewal/ replacement application notwithstanding that the existing licence has lapsed or would treat it as new application and so it would be required to meet all requirements for such applications.
- 1.7 The details of this case are included at ANNEX 1. A specific vehicle is not given, as the applicant needs to ascertain the stance of the council and whether he will benefit from continuity rights prior to his next purchase.
- 1.8 The applicant believes that uncertainty regarding the implementation of the WAV policy meant that he was unable to renew/ replace the vehicle when it expired and explains that in ANNEX 2.
- 1.4 The sub-committee is asked to consider the matter and determine whether to:-
 - a) It gives delegated authority to officers to grant an application for a new vehicle when it is made in due course by treating it effectively as a late renewal with a change of vehicle (as if it was a replacement application made on renewal) or
 - b) Decide not to recognise any continuity rights and refuse to provide such delegated authority for an application where the vehicle does not comply with current policy, such as it not being a WAV.

1.5.1 Legal

There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.

Contact officer: One Legal

E-mail: legalservices@tewkesbury.gov.uk

Tel no: 01684 272015

2. Background

- 2.1 Permission is sought to make an application for a Hackney Carriage Vehicle Proprietor's licence (a HCV licence) for a new vehicle (in this report the term 'new vehicle' will not necessarily mean a brand new vehicle, but will refer to a vehicle that is not currently licensed and which the applicant wishes to licence).
- 2.2 Where an individual holds a HCV licence it is usually incumbent on them to renew that licence before their existing licence expires, to benefit from any 'continuity rights' that they may have given to them in having that existing licence. They may 'renew' the existing vehicle or replace it with a new vehicle under the transitional arrangements.
- 2.3 The council had previously adopted a policy that non Wheelchair Accessible Vehicles (WAVs) would no longer be licensed as hackney carriages from 1st January 2022. This meant that non – WAVs could have been replaced with non – WAVs or simply renewed, but the new licence would not expire beyond 31st December 2021. After that date all hackney vehicles were required to be WAVs.
- 2.4 On 21 September 2021 the council decided not to complete that process. The council decided that saloon type (non WAV) Vehicles could continue to be licensed, pending the approval of a new and yet to be decided policy.
- https://www.cheltenham.gov.uk/news/article/2588/cheltenham_pursues_climate_ambition_and_improved_accessibility_for_taxis
- 2.5 Prior to that decision being made in September, it would be fair to say that following submissions by members of the licensed trade during the course of 2021 that there was some hope for license holders that the council would change its policy and not continue with the WAV requirement or would delay the final implementation date. The trade had been badly affected by the ongoing pandemic and representations had been to that effect.
- 2.6 It would have been reasonable to surmise that the policy may have been changed/ delayed by the council during the course of 2021. Although there was no confirmation from the council or licensing officers that that would happen. Council representatives were meeting representatives of the trade from the early summer to discuss the WAV implementation.
- 2.7 The Licensing Team has recently been approached by a number of vehicle proprietors since the council changed direction and did not decide to implement the requirement for all hackney vehicles to be WAV from 1st January 2022. They have made representations that the uncertainty surrounding the implementation of the WAV policy and the detrimental impact of the pandemic placed them in an invidious situation in respect of their licence renewals when they were due in 2021 or 2020.
- 2.8 They argue that uncertainty led them to choose not to renew and in some cases they disposed of that (previously) licensed vehicle. They argue they could not invest in a WAV at that point and so felt they had no option but to let their licence lapse.
- 2.9 After the recent council decision, they now ask to for a new licence to be granted to them on the same basis that it would have been if they had renewed that licence and sought a replacement of it when it originally expired.

- 2.10 For such a decision to be justifiable, if **Page 13** decided to approve such a potential application, it is suggested that the application would be considered as a replacement of the previously licensed vehicle and that any new grant would be granted with effect from the previous expiry date. This would mean that the licence holder would then be in the same position as if they made such an application when their previous licence expired.
- 2.11 Members are asked whether the recent uncertainty about the implementation of the WAV policy justifies a departure from council policy and whether they believe it appropriate to effectively allow a very late renewal/ replacement, where the vehicle proprietor seeks to licence a new vehicle.
- 2.12 Existing HCV licence holders usually *renew* the licence before it expires and this guarantees continuity of licence in such situations.
- 2.13 Where an existing HCV licence holder wishes to *change* their vehicle during the currency of that licence or when it is due to expire, the licence holder may seek to *replace* the existing vehicle with a new vehicle.
- 2.14 The legislation is silent on the idea of a replacement vehicle application, and yet this is a process that most if not all councils follow to allow a change of vehicle whilst protecting the continuity of licence from that existing vehicle.

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the licensee/applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. The authority will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. Any vehicle application must meet the usual requirements of an application, in any event, such as meeting the council's age policy, provision of a valid MOT and council fitness test. It is felt there is no risk to public safety in connection with this matter.
- 3.4 The council has adopted a local policy to reflect the manner in which it will carry out its licensing responsibilities under the hackney carriage and private hire legislation. The sub - committee must have regard to this policy in making its decision, but it may depart from it where it is considered appropriate to do so. If the sub – committee do depart from it they should provide cogent reasons for doing so.
- 3.6 The council policy permitted replacement and/ or renewal of non – WAVs provided they did not expire after 31st December 2021, during the transitional period prior to that previously planned date for the provision of a fully WAV licensed hackney fleet.
- 3.7 The council has not yet produced a new vehicle policy and will consult fully on it prior to adoption. However, where reasonable reasons are given to the council a non – WAV is currently permitted to be replaced like for like provided it is Euro 6 or better in terms of emissions and a renewal of such a vehicle is currently permitted, until a new policy is implemented.

4. Licensing Comments

- 4.1 **The licensing sub-committee are asked to give a general opinion on such applications as others may be forthcoming through its consideration of these cases.**
- 4.2 **In particular, they are asked for direction or comment on the following:-**

**The maximum time that may elapsed since the last licence expired,
Confirmation that only vehicles with Euro 6 standard emissions or higher will be accepted,
Whether the potential grant of any licence must run from the previous expiry to allow continuity rights to remain.**

Report Author

Contact officer: Jason Kirkwood
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 264159

Case Specifics**Name of applicant: JACOB AROQUIADASSE****Previously HCV licence number: HCV116****Previous vehicle registration number: LP12 XOA****Uniform case reference number (internal use only): 20/00321/HACKVA****Date previous licence last expired: 08.02.2021****Previous vehicle: Mazda 6****New vehicle details: to be confirmed on application****The applicant is seeking an in principal decision regarding whether he will benefit from continuity rights on the application for a new vehicle or be required to purchase a WAV**

Hello

My vechile which was LP12XOA mazda6 gone under MOT failure last February due to mechanical and technical issues. I've paid the relevant renewal fee for the above mentioned vehicle. In this situation I'd like to replace mazda6 for some another saloon vehicle. My new vehicle is ready for collection. Just would like to confirm with you can I proceed for the new vehicle or not. Please let me know.

Regards

Jacob

Licensing Sub-Committee – 5 January 2022

Application for a Hackney Carriage Vehicle Proprietor’s Licence

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 The matter before Members is a little complicated as it reflects a situation not envisaged or discussed in the legislation. The Local Government (Miscellaneous Provisions) Act 1976 refers to the grant of a vehicle licence and stays silent on other application types.
- 1.2 In practical terms there are usually 3 types of vehicle licence application: a new application, a renewal and a replacement.
- 1.3 Where the council brings in a newly adopted policy that places new/ amended requirements on a vehicle proprietor - new applications must meet the policy quite quickly but there will be a transitional period to allow for existing licence holders to meet any new requirements by renewing their existing vehicle or replace it ‘on a like for like basis’ until the end of transitional period.
- 1.4 A new application must meet all requirements of the council for such an application when it is made to the council.
- 1.5 A renewal or replacement application will usually benefit from ‘continuity rights’ in respect of an existing licence during the transitional period and this will be detailed in the policy itself.
- 1.6 Members are asked to consider whether they would grant a potential vehicle application, and decide whether they would treat it as a renewal/ replacement application notwithstanding that the existing licence has lapsed or would treat it as new application and so it would be required to meet all requirements for such applications.
- 1.7 The details of this case are included at ANNEX 1. A specific vehicle is not given, as the applicant needs to ascertain the stance of the council and whether he will benefit from continuity rights prior to his next purchase.
- 1.8 The applicant believes that uncertainty regarding the implementation of the WAV policy meant that he was unable to renew/ replace the vehicle when it expired and explains that in ANNEX 2.
- 1.4 The sub-committee is asked to consider the matter and determine whether to:-
 - a) It gives delegated authority to officers to grant an application for a new vehicle when it is made in due course by treating it effectively as a late renewal with a change of vehicle (as if it was a replacement application made on renewal) or
 - b) Decide not to recognise any continuity rights and refuse to provide such delegated authority for an application where the vehicle does not comply with current policy, such as it not being a WAV.

1.5.1 Legal

There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.

Contact officer: One Legal

E-mail: legalservices@tewkesbury.gov.uk

Tel no: 01684 272015

2. Background

- 2.1 Permission is sought to make an application for a Hackney Carriage Vehicle Proprietor's licence (a HCV licence) for a new vehicle (in this report the term 'new vehicle' will not necessarily mean a brand new vehicle, but will refer to a vehicle that is not currently licensed and which the applicant wishes to licence).
- 2.2 Where an individual holds a HCV licence it is usually incumbent on them to renew that licence before their existing licence expires, to benefit from any 'continuity rights' that they may have given to them in having that existing licence. They may 'renew' the existing vehicle or replace it with a new vehicle under the transitional arrangements.
- 2.3 The council had previously adopted a policy that non Wheelchair Accessible Vehicles (WAVs) would no longer be licensed as hackney carriages from 1st January 2022. This meant that non – WAVs could have been replaced with non – WAVs or simply renewed, but the new licence would not expire beyond 31st December 2021. After that date all hackney vehicles were required to be WAVs.
- 2.4 On 21 September 2021 the council decided not to complete that process. The council decided that saloon type (non WAV) Vehicles could continue to be licensed, pending the approval of a new and yet to be decided policy.
- https://www.cheltenham.gov.uk/news/article/2588/cheltenham_pursues_climate_ambition_and_improved_accessibility_for_taxis
- 2.5 Prior to that decision being made in September, it would be fair to say that following submissions by members of the licensed trade during the course of 2021 that there was some hope for license holders that the council would change its policy and not continue with the WAV requirement or would delay the final implementation date. The trade had been badly affected by the ongoing pandemic and representations had been to that effect.
- 2.6 It would have been reasonable to surmise that the policy may have been changed/ delayed by the council during the course of 2021. Although there was no confirmation from the council or licensing officers that that would happen. Council representatives were meeting representatives of the trade from the early summer to discuss the WAV implementation.
- 2.7 The Licensing Team has recently been approached by a number of vehicle proprietors since the council changed direction and did not decide to implement the requirement for all hackney vehicles to be WAV from 1st January 2022. They have made representations that the uncertainty surrounding the implementation of the WAV policy and the detrimental impact of the pandemic placed them in an invidious situation in respect of their licence renewals when they were due in 2021 or 2020.
- 2.8 They argue that uncertainty led them to choose not to renew and in some cases they disposed of that (previously) licensed vehicle. They argue they could not invest in a WAV at that point and so felt they had no option but to let their licence lapse.
- 2.9 After the recent council decision, they now ask to for a new licence to be granted to them on the same basis that it would have been if they had renewed that licence and sought a replacement of it when it originally expired.

- 2.10 For such a decision to be justifiable, if MemPage 19ided to approve such a potential application, it is suggested that the application would be considered as a replacement of the previously licensed vehicle and that any new grant would be granted with effect from the previous expiry date. This would mean that the licence holder would then be in the same position as if they made such an application when their previous licence expired.
- 2.11 Members are asked whether the recent uncertainty about the implementation of the WAV policy justifies a departure from council policy and whether they believe it appropriate to effectively allow a very late renewal/ replacement, where the vehicle proprietor seeks to licence a new vehicle.
- 2.12 Existing HCV licence holders usually *renew* the licence before it expires and this guarantees continuity of licence in such situations.
- 2.13 Where an existing HCV licence holder wishes to *change* their vehicle during the currency of that licence or when it is due to expire, the licence holder may seek to *replace* the existing vehicle with a new vehicle.
- 2.14 The legislation is silent on the idea of a replacement vehicle application, and yet this is a process that most if not all councils follow to allow a change of vehicle whilst protecting the continuity of licence from that existing vehicle.

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the licensee/applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. The authority will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. Any vehicle application must meet the usual requirements of an application, in any event, such as meeting the council's age policy, provision of a valid MOT and council fitness test. It is felt there is no risk to public safety in connection with this matter.
- 3.4 The council has adopted a local policy to reflect the manner in which it will carry out its licensing responsibilities under the hackney carriage and private hire legislation. The sub - committee must have regard to this policy in making its decision, but it may depart from it where it is considered appropriate to do so. If the sub – committee do depart from it they should provide cogent reasons for doing so.
- 3.6 The council policy permitted replacement and/ or renewal of non – WAVs provided they did not expire after 31st December 2021, during the transitional period prior to that previously planned date for the provision of a fully WAV licensed hackney fleet.
- 3.7 The council has not yet produced a new vehicle policy and will consult fully on it prior to adoption. However, where reasonable reasons are given to the council a non – WAV is currently permitted to be replaced like for like provided it is Euro 6 or better in terms of emissions and a renewal of such a vehicle is currently permitted, until a new policy is implemented.

4. Licensing Comments

- 4.1 **The licensing sub-committee are asked to give a general opinion on such applications as others may be forthcoming through its consideration of these cases.**
- 4.2 **In particular, they are asked for direction or comment on the following:-**

**The maximum time that may elapsed since the last licence expired,
Confirmation that only vehicles with Euro 6 standard emissions or higher will be accepted,
Whether the potential grant of any licence must run from the previous expiry to allow continuity rights to remain.**

Report Author

Contact officer: Jason Kirkwood
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 264159

Case Specifics

Name of applicant: NISAR HUSSAIN

Previously HCV licence number: HCV141

Previous vehicle registration number: HV09 CBO

Uniform case reference number (internal use only): 19/02197/HACKVA

Date previous licence last expired: 20.06.20

Previous vehicle: Ford Torneo

New vehicle details: to be confirmed on application

The applicant is seeking an in principal decision regarding whether he will benefit from continuity rights on the application for a new vehicle or be required to purchase a WAV

Just to be clear, I actually no longer have the vehicle. During the pandemic, I had to sell it to survive and I could not afford to buy a WAV.

Now that we have been out of lockdown for some time, things have improved in the taxi trade sufficiently for me to now be in a position to consider replacing my original vehicle with a Euro 5/6 as per Council policy.

I hope that you will consider my application favourably, as I am aware that a number of other drivers have been able to recover their plates and purchase saloons; I see no reason why I should be treated any differently. As soon as I receive a decision regarding my plate, I will purchase a replacement vehicle.

Dear Cheltenham Licensing Dept,

Plate no. 141 was removed from my van, as I could not afford to purchase a WAV to replace it due to Covid. The Government allocated Cheltenham Council funds to support small businesses including self employed taxi drivers. Somehow Cheltenham Council, along with Gloucester Council manipulated the situation to exclude drivers who live in Gloucester & work Cheltenham & vice versa from qualifying for the grant.

I have lived in Gloucester for 15 years and have always worked in Cheltenham. When Cheltenham declined to give me a grant on the basis that I live in Gloucester, I applied to Gloucester, who advised me that it was Cheltenham's responsibility, on the basis that I have been paying licence fees to Cheltenham for the past 15 years and that is business is therefore in Cheltenham.

I am still deeply upset and offended by the way that I have been treated. You have since altered the WAV policy and I am aware that several drivers have been given their plates back. I would therefore like to apply to have this plate reallocated to a vehicle, which will be Euro 5/6, which will be significantly more environmentally friendly than the WAVs that you have encouraged and permitted. I do hope that common sense and reasonableness will prevail on this occasion and that you will give me the opportunity to put this plate back on a vehicle.

Licensing Sub-Committee – 5 January 2022

Application for a Hackney Carriage Vehicle Proprietor’s Licence

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 The matter before Members is a little complicated as it reflects a situation not envisaged or discussed in the legislation. The Local Government (Miscellaneous Provisions) Act 1976 refers to the grant of a vehicle licence and stays silent on other application types.
- 1.2 In practical terms there are usually 3 types of vehicle licence application: a new application, a renewal and a replacement.
- 1.3 Where the council brings in a newly adopted policy that places new/ amended requirements on a vehicle proprietor - new applications must meet the policy quite quickly but there will be a transitional period to allow for existing licence holders to meet any new requirements by renewing their existing vehicle or replace it ‘on a like for like basis’ until the end of transitional period.
- 1.4 A new application must meet all requirements of the council for such an application when it is made to the council.
- 1.5 A renewal or replacement application will usually benefit from ‘continuity rights’ in respect of an existing licence during the transitional period and this will be detailed in the policy itself.
- 1.6 Members are asked to consider whether they would grant a potential vehicle application, and decide whether they would treat it as a renewal/ replacement application notwithstanding that the existing licence has lapsed or would treat it as new application and so it would be required to meet all requirements for such applications.
- 1.7 The details of this case are included at ANNEX 1. A specific vehicle is not given, as the applicant needs to ascertain the stance of the council and whether he will benefit from continuity rights prior to his next purchase.
- 1.8 The applicant believes that uncertainty regarding the implementation of the WAV policy meant that he was unable to renew/ replace the vehicle when it expired and explains that in ANNEX 2.
- 1.4 The sub-committee is asked to consider the matter and determine whether to:-
 - a) It gives delegated authority to officers to grant an application for a new vehicle when it is made in due course by treating it effectively as a late renewal with a change of vehicle (as if it was a replacement application made on renewal) or
 - b) Decide not to recognise any continuity rights and refuse to provide such delegated authority for an application where the vehicle does not comply with current policy, such as it not being a WAV.

1.5.1 Legal

There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.

Contact officer: One Legal

E-mail: legalservices@tewkesbury.gov.uk

Tel no: 01684 272015

2. Background

- 2.1 Permission is sought to make an application for a Hackney Carriage Vehicle Proprietor's licence (a HCV licence) for a new vehicle (in this report the term 'new vehicle' will not necessarily mean a brand new vehicle, but will refer to a vehicle that is not currently licensed and which the applicant wishes to licence).
- 2.2 Where an individual holds a HCV licence it is usually incumbent on them to renew that licence before their existing licence expires, to benefit from any 'continuity rights' that they may have given to them in having that existing licence. They may 'renew' the existing vehicle or replace it with a new vehicle under the transitional arrangements.
- 2.3 The council had previously adopted a policy that non Wheelchair Accessible Vehicles (WAVs) would no longer be licensed as hackney carriages from 1st January 2022. This meant that non – WAVs could have been replaced with non – WAVs or simply renewed, but the new licence would not expire beyond 31st December 2021. After that date all hackney vehicles were required to be WAVs.
- 2.4 On 21 September 2021 the council decided not to complete that process. The council decided that saloon type (non WAV) Vehicles could continue to be licensed, pending the approval of a new and yet to be decided policy.
- https://www.cheltenham.gov.uk/news/article/2588/cheltenham_pursues_climate_ambition_and_improved_accessibility_for_taxis
- 2.5 Prior to that decision being made in September, it would be fair to say that following submissions by members of the licensed trade during the course of 2021 that there was some hope for license holders that the council would change its policy and not continue with the WAV requirement or would delay the final implementation date. The trade had been badly affected by the ongoing pandemic and representations had been to that effect.
- 2.6 It would have been reasonable to surmise that the policy may have been changed/ delayed by the council during the course of 2021. Although there was no confirmation from the council or licensing officers that that would happen. Council representatives were meeting representatives of the trade from the early summer to discuss the WAV implementation.
- 2.7 The Licensing Team has recently been approached by a number of vehicle proprietors since the council changed direction and did not decide to implement the requirement for all hackney vehicles to be WAV from 1st January 2022. They have made representations that the uncertainty surrounding the implementation of the WAV policy and the detrimental impact of the pandemic placed them in an invidious situation in respect of their licence renewals when they were due in 2021 or 2020.
- 2.8 They argue that uncertainty led them to choose not to renew and in some cases they disposed of that (previously) licensed vehicle. They argue they could not invest in a WAV at that point and so felt they had no option but to let their licence lapse.
- 2.9 After the recent council decision, they now ask to for a new licence to be granted to them on the same basis that it would have been if they had renewed that licence and sought a replacement of it when it originally expired.

- 2.10 For such a decision to be justifiable, if **Page 25** decided to approve such a potential application, it is suggested that the application would be considered as a replacement of the previously licensed vehicle and that any new grant would be granted with effect from the previous expiry date. This would mean that the licence holder would then be in the same position as if they made such an application when their previous licence expired.
- 2.11 Members are asked whether the recent uncertainty about the implementation of the WAV policy justifies a departure from council policy and whether they believe it appropriate to effectively allow a very late renewal/ replacement, where the vehicle proprietor seeks to licence a new vehicle.
- 2.12 Existing HCV licence holders usually *renew* the licence before it expires and this guarantees continuity of licence in such situations.
- 2.13 Where an existing HCV licence holder wishes to *change* their vehicle during the currency of that licence or when it is due to expire, the licence holder may seek to *replace* the existing vehicle with a new vehicle.
- 2.14 The legislation is silent on the idea of a replacement vehicle application, and yet this is a process that most if not all councils follow to allow a change of vehicle whilst protecting the continuity of licence from that existing vehicle.

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the licensee/applicant and the risks to the safety and comfort of the public.
- 3.2 Each case will be decided on its own merits. The authority will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. Any vehicle application must meet the usual requirements of an application, in any event, such as meeting the council's age policy, provision of a valid MOT and council fitness test. It is felt there is no risk to public safety in connection with this matter.
- 3.4 The council has adopted a local policy to reflect the manner in which it will carry out its licensing responsibilities under the hackney carriage and private hire legislation. The sub - committee must have regard to this policy in making its decision, but it may depart from it where it is considered appropriate to do so. If the sub – committee do depart from it they should provide cogent reasons for doing so.
- 3.6 The council policy permitted replacement and/ or renewal of non – WAVs provided they did not expire after 31st December 2021, during the transitional period prior to that previously planned date for the provision of a fully WAV licensed hackney fleet.
- 3.7 The council has not yet produced a new vehicle policy and will consult fully on it prior to adoption. However, where reasonable reasons are given to the council a non – WAV is currently permitted to be replaced like for like provided it is Euro 6 or better in terms of emissions and a renewal of such a vehicle is currently permitted, until a new policy is implemented.

4. Licensing Comments

- 4.1 **The licensing sub-committee are asked to give a general opinion on such applications as others may be forthcoming through its consideration of these cases.**
- 4.2 **In particular, they are asked for direction or comment on the following:-**

**The maximum time that may elapsed since the last licence expired,
Confirmation that only vehicles with Euro 6 standard emissions or higher will be accepted,
Whether the potential grant of any licence must run from the previous expiry to allow continuity rights to remain.**

Report Author

Contact officer: Jason Kirkwood
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 264159

Case Specifics

Name of applicant: JAMES WALKER

Previously HCV licence number: HCV118

Previous vehicle registration number: FD12 VYO

Uniform case reference number (internal use only): 20/01002/HACKVA

Date previous licence last expired: 30.07.2021

Previous vehicle: Toyota Avensis

New vehicle details: to be confirmed on application

The applicant is seeking an in principal decision regarding whether he will benefit from continuity rights on the application for a new vehicle or be required to purchase a WAV

Dear Council Committee

I am sending this to put my point of view across about my hackney plate 118 that expired on 30/7/2021 . I did not believe it was worth my expense to renew the plate at the time for only a few months .As been told by the council the licence would not be renewed after 31/12/2021. I now feel i should be able to re register my car .Due to the lack of work {covid ment no taxi work } and money at the time i could not afford to do it for 4 months .

If i was told the policy was going to change and i would be able to use my car for another 4 years or how many it will be .Then i would have renewed it .

I feel very strongly i have been taken out of the trade by no fault of my own .

I have had a licence for about 7 years and have done differnt school runs over that time and have never had anything problems ,i used to enjoy it and feel like i was giving something back .

I can understand the need for WAV and eletric WAV fully but the drivers need time and the work to pick up before this is brought in .

I hope you can see my point of view and give me back my licence .

James walker

Cheltenham Borough Council

Licensing Committee – 5 January 2022

Consultation on requirement to participate in schemes to promote better availability of licensed wheelchair accessible vehicles (WAVs)

Report of the Licensing Team Leader

1. Executive Summary and Recommendation

- 1.1 The authority is consulting on proposals to promote better availability of licensed wheelchair accessible vehicles in Cheltenham.
- 1.2 The Licensing Committee acts as lead consultee to the Cabinet Member for Customer Services and Regulatory Services. In this capacity, the Licensing Committee is given the opportunity to consider the consultation and respond as appropriate.
- 1.3 **The Committee is recommended to:**
 - 1.3.1 **Note the consultation;**
 - 1.3.2 **Formulate any response the Committee may wish to make for consideration by Cabinet.**
- 1.4 **Implications**

Legal

Contact officer: One Legal
E-mail: legalservices@tewkesbury.gov.uk
Tel no: 01684 272015

2. Consultation on requirement to participate in schemes to promote better availability of licensed wheelchair accessible vehicles (WAVs)

- 2.1 A copy of the consultation document is attached at **Appendix 1** of this report.
- 2.2 The consultation sets out proposals to improve the availability of licensed wheelchair accessible Hackney Carriage vehicles.
- 2.3 The authority has received numerous complaints from people with a range of disabilities that they struggle to access wheelchair accessible vehicles when they need them. This makes it challenging for people with disabilities to go about their normal lives and undertake certain activities that require them to travel. These are attached at **Appendix 2**.
- 2.4 The authority attempted on a number of occasions to engage with the licensed Hackney Carriage trade to develop a voluntary scheme to improve the availability of licensed Hackney Carriage WAVs. Officers advised the trade that if engagement with a voluntary scheme is poor, the authority might consider more formal arrangements to ensure people with disabilities have adequate access to licensed Hackney Carriage WAVs.
- 2.5 The response to a voluntary scheme was broadly disappointing with only a small minority willing to participate in a voluntary scheme. As a consequence, the authority is putting forward formal proposals to ensure provision is adequate for people with disabilities.

Additional licence condition for Hackney vehicle proprietors

- 2.6 The authority proposes to include a licence condition on all licensed Hackney Carriage WAVs to the effect that they will be required to proactively participate in schemes and incentives to promote the availability of licensed WAVs.
- 2.7 The proposed condition would be: "Drivers of licensed wheelchair accessible Hackney Carriage vehicles must proactively participate and subscribe to schemes and incentives to promote the availability of licensed wheelchair accessible Hackney Carriage vehicles to users with disabilities."

Schemes and incentives - Use of smartphone application (app) to improve availability of licensed accessible vehicles

- 2.8 The authority wants to employ the use of smartphone ride hailing technology to improve the availability of licensed Hackney Carriage WAVs to users with disabilities.
- 2.9 Subject to the imposition of a condition as outlined above, the authority will expect drivers of licensed Hackney Carriage WAVs to subscribe, and proactively participate in, the use of such a smartphone ride hailing app.
- 2.10 Under this proposal, the authority will procure and set up such an app. The authority will expect all drivers of licensed Hackney Carriage WAVs to sign up and make themselves available during the times when they are usually available for hiring.
- 2.11 The use of a smartphone app is considered to be the most effective means of improving the availability of licensed Hackney Carriage WAVs. The travelling public are, generally speaking, increasingly familiar with the use of smartphone ride hailing apps. There are already a number in use in the town, suggesting that, broadly speaking, licence holders are also familiar with this technology.

Background Papers

Service Records

Report Author

Contact officer: Louis Krog

E-mail: licensing@cheltenham.gov.uk

Licensing consultations

Consultation on requirement to participate in schemes to promote better availability of licensed wheelchair accessible vehicles (WAVs)

Introduction

This consultation sets out proposals to improve the availability of licensed wheelchair accessible Hackney Carriage vehicles. The authority is aware that people with a range of disabilities struggle to access wheelchair accessible vehicles when they need them. This makes it challenging for people with disabilities to go about their normal lives and undertake certain activities that require them to travel.

The authority attempted on a number of occasions to engage with the licensed Hackney Carriage trade to develop a voluntary scheme to improve the availability of licensed wheelchair accessible Hackney Carriage vehicles. We advised the trade that if engagement with a voluntary scheme is poor, the authority might consider more formal arrangements to ensure people with disabilities have adequate access to licensed wheelchair accessible Hackney Carriage vehicles.

We would like to thank the licensed vehicle proprietors who did respond in a positive way on a voluntary scheme. However, the response was generally disappointing with, roughly, only a 10% positive response rate.

As a consequence, the authority is now putting forward formal proposals to ensure provision is adequate for people with disabilities.

Equality duties on licence holders

Licensed drivers have equality duties under the Equality Act 2010. Drivers of designated wheelchair accessible Hackney Carriage vehicles are required:

- to carry the passenger while in the wheelchair
- to not to make any additional charge for doing so
- to carry a wheelchair, if the passenger chooses to sit in a passenger seat
- to carry passengers safely and in reasonable comfort.

Licensed drivers should also provide mobile, if needed:

- to enable a passenger to get into and out of the vehicle
- to enable a passenger to get into and out of the vehicle while in their wheelchair if they want to travel in their wheelchair
- to load and unload a passenger's luggage
- to load a passenger's wheelchair into and out of the vehicle if they don't want to remain in the wheelchair.

National guidance

The authority complies with **national requirements to publish information on designated wheelchair accessible vehicles**. However, the national guidance does not include a requirement to publish contact details for designated wheelchair accessible vehicles. This therefore makes the published information of limited practical use. The authority can therefore not rely in this as a practical solution.

Improving the availability of licensed wheelchair accessible Hackney Carriage vehicles

Additional licence condition for Hackney Carriage vehicle proprietors

The authority proposes to include a licence condition on all licensed WAV Hackney Carriage vehicles to the effect that they will be required to proactively participate in schemes and incentives to promote the availability of licensed WAVs.

The proposed condition would be: "Drivers of licensed wheelchair accessible Hackney Carriage vehicles must proactively participate and subscribe to schemes and incentives to promote the availability of licensed wheelchair accessible Hackney Carriage vehicles to users with disabilities."

From our engagement with various groups and the licensed trade, the authority knows that people with disabilities struggle to book wheelchair accessible Hackney Carriage vehicles. The authority wrote to relevant licence holders and the trade more widely to seek voluntary agreement on schemes to improve the availability of licensed wheelchair accessible Hackney Carriage vehicles to users with disabilities.

The response was generally disappointing with, roughly, only a 10% positive response rate. The authority regularly receives complaints about the lack of licensed WAVs and/or the difficulties people with disabilities face when attempting to book a licensed WAV.

Whilst it is not the authority's responsibility to ensure a sufficient supply for licensed vehicles, there is a general equality duty that the authority is seeking to address by doing what it reasonably can to facilitate the availability of WAVs to people who need, and reply on them.

Consultation question(s) on additional licence condition:

1. Is the wording of the proposed condition sufficiently clear having regard to the intention?
2. Can you think of an alternative means to achieve the same outcome?

Schemes and incentives

The authority is also consulting on a number of proposed schemes to improve the availability of licensed WAVs.

1. Use of smartphone application (app) to improve availability of licensed accessible vehicles

The authority wants to employ the use of smartphone ride hailing technology to improve the availability of licensed wheelchair accessible Hackney Carriage vehicles to users with disabilities.

Subject to the imposition of a condition as outlined above, the authority will expect drivers of licensed wheelchair accessible Hackney Carriage vehicles to subscribe, and proactively participate in, the use of such a smartphone ride hailing app.

Under this proposal, the authority will procure and set up such an app. The authority will expect all drivers of licensed wheelchair accessible Hackney Carriage vehicles to sign up and make themselves available during the times when they are usually available for hiring.

The use of a smartphone app is considered to be the most effective means of improving the availability of licensed wheelchair accessible Hackney Carriage vehicles. The travelling public are, generally speaking, increasingly familiar with the use of smartphone ride hailing apps. There are already a number in use in the town, suggesting that, broadly speaking, licence holders are also familiar with this technology.

Consultation question(s) on use of smartphone app:

1. Do you agree with the use of a smartphone app to make it easier for people with disabilities to book accessible licensed vehicles? If not, please explain?
2. Are you familiar with smartphone ride hailing apps and how they work?
3. Can you think of an alternative means to make it easier for people with disabilities to book accessible licensed vehicles?

2. Contact list

We are aware that not everybody has access to a mobile phone or will be able to use apps. As an alternative means of improving the availability of licensed wheelchair accessible Hackney Carriage vehicles, the authority is also asking licensed WAV proprietors, or drivers if different, to make available a contact number for people to call.

It is not proposed that the authority will publish such a list. Instead, it will make the information available on request.

Under data protection legislation, the authority will require explicit consent. We urge licensed proprietors, or drivers, of wheelchair accessible Hackney Carriage vehicles to contact the licensing department to give consent to add their contact details to the list maintained.

Responding to this consultation

The consultation is open for comments until noon on 30 December 2021.

Your comments can be sent to licensing@cheltenham.gov.uk or in writing to:

Licensing Section
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 9SA

[Licensing consultations privacy statement](#)

If you have any questions about this consultation, please contact licensing@cheltenham.gov.uk.

[Current licensing consultations](#)

Consultation on requirement to participate in schemes to promote better availability of licensed wheelchair accessible vehicles (WAVs)

09 November 2021 14:11

I am emailing as Alex Chalk MP has been contacted by a constituent regarding WAV taxi's that can be booked in advance.

We were wondering if the Council held a list of which private hire vehicles that are WAVs and the contact details for the drivers that we may be able to pass on to the constituent?

Dear Licensing

Videos footage attached

The early hours of Sun Morning 24th October.

Vid1

In this video you will see a wheelchair accessible vehicle in front of me. There is another WAV in front of plate 246 also and one directly behind me.

As I approach the front of the queue you will see a wheelchair user on your right hand side. At this point there is no attempt by the Marshalls to instruct a WAV to take the wheelchair customer.

The WAV in front of Plate 246 picks up other customers.

Plate 246 suddenly realises he may have to pick up the Wheelchair customer so he attempts to leave the rank but the WAV in front of him pulls off

and the Marshall in the yellow jacket points him to pull over further up the queue and instructs two young ladies going to Gloucester to enter his vehicle.

So that's 2 WAVs that I'm aware of have left the rank without picking up the wheelchair user.

Vid2

As I approach the front of the queue the Marshall in the black jacket tells the W- customer to get into my saloon car (anyone who refuses customers this Marshall always seems to direct refused customers to me specifically

as I rarely refuse custom) I explain that there is a wheelchair car directly behind me. I would have had no issues if the customer would have preferred a saloon car but in this case it wasn't the case. You can see through my back window the w-customer making his way onto the main side of the road to speak to me on my left - which is dangerous for the user.

I ask whether he would prefer a WAV as there was one directly behind me - he informs that he's already been waiting 30mins for one !!!!

Vid3

I get out of my car to instruct the WAV to pick up the waiting WAV customer and inform the Marshall to make sure that the driver does not make any excuses.

A driver know as SERGIO (sorry don't know his plate) does pull off to the side to eventually pick up the W- customer.

This is totally unacceptable behaviour from the Marshalls and drivers who clearly avoided the pick

up !

So therefore I leave it to your discretion to asses the video evidence provided.

(Vids had to be compressed down in size so quality has been lost but its still clear enough to see what is going on)

Council, 18 October 2021

Public Questions

Question from ... to the Cabinet Member Customer and Regulatory Services, Councillor Martin Horwood
--

Wheelchair taxi situation is a little crazy. I'd need a private hire car to get my wheelchair into town - usually Dial-a Cab - to find some wheelchair taxis in the middle of town. Can we have some liberalisation for other Private Hire wheelchair accessible vehicles ? Dial a Cab are run off their wheels trying to meet the needs of wheelchair users who can't always use the Cabs on taxi ranks.

04 October 2021 15:08

Dear all

I am writing this email with disgust at the way your licencing department are treating My daughter and other wheelchair users as second class citizens in Cheltenham.

When it comes to your decision to make all taxis in the town Wav. And your dept giving drivers brand spanking new Wav cars, but can only be used at taxi ranks disgusting. You are taking drivers away from taxi company's in the town and deminishing the company's Wav vehicles they have available.

I am now going to tell you a story of my disabled daughter who is a powerchair user.

Cloe my daughter, She is 20 years old, Cloe has a connective tissue disorder, She suffers from Chronic pain, Chronic fatigue and many other problems including Raynaud's, She cannot walk far without one of her Joints dislocating, She relies on her powerchair to get out the house in the mornings.

Cloe has now started Her second year at the University of Gloucestershire taking Primary education as her subject, Her main goal to become a primary school teacher.

She has also received at distinction for Cyber security from Gloscol

Cloe starts Uni most mornings at 9am, She USED to be able to get a Wav Taxi from a Company.

Not any more she can't, Your licencing department have caused this,

There are not enough drivers with Wav taxis to be able to get a taxi now so Cloe cant get to University in the mornings. Cloe now has to TRY and get a bus, Now as you should be aware Stagecoach buses have also got major problems and so many buses are being cancelled and our bus route A is one of the routes being affected. There is now no guarantee that Cloe can now get a bus to University,

And also because the cold wet winter weather is setting in Cloe is having to set off for University at 7.15am, and its having a detrimental effect on her health and I'm extremely worried for her when she has to leave so early, This also has a effect of Cloe's Raynaud's, Her feet and hands turn Blue!

Cloe is not a second class citizen, She is a bright and majorly outstanding young lady who doesn't deserve to be treated unfairly and its your department which is causing this. Your department is causing Cloe ill health. Cloe is not the only one, All over Cheltenham disabled people are being treated unfairly because of you.

Maybe you should try spending more than a hour in a wheelchair and living my daughter's life for a while to see what struggles she had to face on a daily basis.

What are you going to do about it,

28/09/2021 16:52

Hello there,

I have been given this email address to use by the Twitter account operative.

I'll just give a little background....

My Husband is severely disabled and is a full-time wheelchair user. For a number of years we've travelled from Woking in our adapted car to visit Cheltenham for the Jazz, Science and Literary Festivals.

Sometimes during our stay, we've opted to hire a taxi to an event rather than try to find a car park as it's always difficult for us with an 8ft side ramp to find the right parking for our needs in the town during festival time.

It has not been a particular problem to book a cab in the past, although if we've tried to get a taxi from the Montpellier Gdns ranks, they have not wanted to take us as passengers and we've often suspected or felt that we were being given excuses as to why they wouldn't accept us for the tender.

Anyway, during lockdown, Husband has suffered a further relapse in his MS symptoms and we decided to get a new car with further adaptations to enable him to continue driving – which was due with us – now.

Sadly, the car is not even in the country yet, so we've had to find another way to visit the town next month for the literary festival. This has taken an awful lot of planning – not least because my Husband's condition requires a lot of equipment for his comfort and everyday-life. I've had to order more compact or folding items and we've had practice runs with local taxi firms to make sure they can get us and all the equipment in so we can travel to the train station at Reading and onwards to Cheltenham.

All fine – until we try to book a taxi from Cheltenham Spa station to get us just over a mile up the road to Premier inn in Henrietta Street.

We've tried companies we've used before, we've tried many others too – all of which are advertising specifically on their websites that they offer an accessible taxi service, but ALL are giving us what seem to be excuses for not taking the job on – even before we tell them what is required. As I mentioned to the person manning the Twitter account, perhaps because we've had a negative

experience in the town with cabs before, it has somewhat coloured our judgement, but it was beginning to feel discriminatory....

My contact from Twitter suggested I send an email to you so that we could be advised why there seems to be an issue in finding something suitable for our requirements – but also to try to get help for our situation – and frankly, the whole trip hinges on us being able to get from the station to our hotel – and obviously back again for the return journey. Walking what may seem a short way with all the equipment we have is not an option.

We've found a list on the Council website of all the local owners of accessible vehicles – but no contact details, and we've also left a voice message at the department we were put through to by the person answering calls on the general telephone number, but nobody has got back to us yet.

Currently, we have had to book with a company in Gloucester who will charge us £40 surcharge – plus, I assume the journey fee. A ridiculous amount, but one we're just about happy to pay for peace of mind and knowing we won't get stranded at the station.

I really would be grateful if you could get back to me on this one – life caring for someone so disabled is challenging and difficult enough as it is – we've NEVER had such problems with taxis before wherever we have been – and despite all our obstacles, we've travelled a lot to many different places in the past.

Thank you for your time and for reading this email.

I look forward to hearing from you,

From: Collette Sekulic <Collette.Sekulic@cheltenham.gov.uk>
Sent: 28 September 2021 11:30
To: Internet - Licensing <Licensing@cheltenham.gov.uk>
Subject: List of WAVs online, but how do you contact the drivers?

Good morning,

xx on xx left a voicemail this morning asking for help in finding a WAV. He can see the list we have of driver names on our webpage, but there are no contact numbers? He has tried many companies but cannot find a WA taxi.

There is also a voicemail from xx at Cheltenham Radio that says he has a friend with the same issue (might be the customer above) and would like to know what we can do to help. He asked us to email our response to xx

Many thanks,

Collette Sekulic

Business Support Officer

From: Katie Sandey <katie.sandey@cheltenham.gov.uk>
Sent: 28 September 2021 11:16

To: Louis Krog <Louis.Krog@cheltenham.gov.uk>

Subject: twitter

Hi Louis

Can anyone in your team advise – see the below twitter thread.

Thanks, Katie

Completely frustrated. We've organised everything carefully & in minute detail for a planned trip to [@CheltLitFest](#) for my wheelchair-using Husband. I've reduced the vital equipment he needs for taking on the train to get us there, booked taxis this end to the station - BUT.....

[10:03 AM · Sep 28, 2021 · Twitter Web App](#)

[1 Like 1h](#)

Replying to

NOBODY in Cheltenham seems to have a wheelchair accessible taxi to get us from the train station there to the central [@TravelodgeUK](#) in the town - and yet we KNOW we've used one before. [@CheltenhamBC](#) can you help us? Our whole trip hinges on this part of our journey!

From: xx <xx@activeimpact.org.uk>

Sent: 16 August 2021 13:20

To: Internet - Licensing <Licensing@cheltenham.gov.uk>

Subject: WAV Hackney Carriage Licences Holders contact details

Hello,

I wonder if you could help us by supplying a list of licence holders in Cheltenham who have Wheelchair Accessible Vehicles please?

Historically, our disabled colleague has used Dial-a-Cab. But when we called to arrange a new account with them this week they stated they cannot offer pre-bookings for WAV customers which is an essential requirement for our colleague, meaning we now need a new provider.

We are looking for several providers who could accept prebookings to enable our colleague to travel to and in work. Usually this is done on an account basis and paid by Access to Work, however, we are happy to pay directly until the account details can be put in place.

many thanks,

xxx

CEO



Office: 01452 341266 Email: xx@activeimpact.org.uk

Mobile: xxx Web: www.activeimpact.org.uk

Facebook: [@activeimpact](https://www.facebook.com/activeimpact)

Twitter: [@ActiveImpactUK](https://twitter.com/ActiveImpactUK)

Instagram: [@active_impact_glos](https://www.instagram.com/active_impact_glos)

[Join our inclusive online community to find things to do that work for you:](http://www.yourewelcomeglos.org)

www.yourewelcomeglos.org

From: xx <xx@hotmail.co.uk>

Date: Monday, 18 Oct 2021, 2:05 pm

To: Councillor Martin Horwood <Clr.Martin.Horwood@cheltenham.gov.uk>

Subject: Taxis

Dear Mr. Horwood,

I hope you can give me some answers as to why it is impossible to pre- book or even to arrange a wheelchair taxi on the day- (to take my friend home from a nursing home for a day visit) before the pandemic we never had a problem, she came home a day a week.

Every week I try to book a taxi (as I'm not allowed to pre-book) mostly without success. Recently on local news it confirmed Cheltenham had 70 wheelchair taxis so

Why are they not doing pick-ups.? From what I've been told by a taxi rank driver I can get one from town centre or Pittville St. IF I push my friend to town!! If I could do this I wouldn't need a taxi. I believe this issue is totally wrong. To- day I've rang at least 7 taxi companies NO success. Surely this is breaking the Disabled discrimination Act.

I hope you can help or pass my concerns onto the correct person,

Yours faithfully,

xxx

Sent from my iPad

From: xx@yahoo.com <xx@yahoo.com>

Date: Thursday, 07 Oct 2021, 3:48 pm

To: Councillor Martin Horwood <Clr.Martin.Horwood@cheltenham.gov.uk>

Subject: Wheelchair accessible taxis

Dear Martin,

Wheelchair accessible taxis

I am prompted to write by the article in last week's Echo on the scrapping the plan to make all "hackney carriages" wheelchair accessible. I would have written after the previous article, but we mistakenly understood from

something Dilys Barrel said that Cheltenham was simply implementing national policy.

I would be most grateful if you could send me the detailed analysis on which the original decision was made. It would be inappropriate for me to comment in detail before seeing the full information, but I have a strong personal stake in the matter. For some years now the onset of old age has given me considerable mobility problems, but not disabling enough to make me use a wheelchair. (I note with approval that most public toilets have a sign that not all disabilities are visible.) In particular, without going into all the details, for over 5 years I have found it almost impossible to use a London taxi, and a ramp would not help. Elsewhere, I use a taxi resembling a private car.

Even before seeing the paperwork, I very much welcome Ann Lightfoot's comment that we should be "working towards equality of access for all."

Best wishes,

xxx

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank