

Cheltenham Borough Council

Cabinet – 19 June 2012

Licensing of Rickshaws in Cheltenham

Accountable member	Cabinet Member Housing and Safety - Councillor Peter Jeffries
Accountable officer	Director of Wellbeing & Culture – Sonia Phillips
Accountable scrutiny committee	Overview and Scrutiny Committee
Ward(s) affected	All
Key Decision	No
Executive summary	<p>The Council has been approached with a request to licence rickshaws in the borough. A rickshaw is potentially licensable as a Hackney Carriage.</p> <p>The Council's current Licensing Policy, Guidance and Conditions for Private Hire and Taxis impose restrictions on the licensing of Hackney Carriages. A rickshaw would not meet these criteria.</p> <p>Cabinet is asked to consider whether in principle it agrees to the potential licensing of these types of vehicles and their drivers and, if so, to approve a draft policy, procedure and conditions for consultation.</p>
Recommendations	<ol style="list-style-type: none">1. That Cabinet approve in principle the licensing of these types of vehicles and their drivers.2. Subject to recommendation 1 above, approve the draft policy for consultation at Appendix 2.3. That subject to recommendation 1 that the approval in principle of the licensing of these types of vehicles and their drivers be subject to an initial trial period, if Members consider this to be necessary.
Financial implications	<p>There are no financial implications arising from this report. The number of additional licences issued in the first year is not expected to have a significant effect on existing budgets.</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 26 4125</p>

Legal implications	<p>The legal implications are contained in the body of the report. If Cabinet approves in principle the licensing of these types of vehicles and their drivers an application would have to be submitted to the Licensing Department. Each application will then have to be considered on its own merits.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@tewkesbury.gov.uk, 01684 272693</p>
HR implications (including learning and organisational development)	<p>There are no HR implications arising from this report.</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
Key risks	<p>As outlined in Appendix 1</p>
Corporate and community plan Implications	<p>Carbon emissions are reduced and Cheltenham is able to adapt to the impacts of climate change</p> <p>Cheltenham has improved access and travel options</p> <p>Unemployed people are able to access employment and training</p> <p>Attract more visitors and investors to Cheltenham</p>
Environmental and climate change implications	<p>Rickshaws offer an environmentally friendly alternative form of public transport</p>

1. Background

- 1.1 Rickshaws (sometimes referred to as pedicabs) are pedal-powered cycles (typically with three or four wheels) used for the purpose of carrying fare paying passengers. Within this country they are a relatively new form of public transport and prominently feature in the London street scene. Outside London such vehicles are classified as hackney carriages (taxis) and are licensed as such.
- 1.2 Within the borough, rickshaws have never been licensed by the Council.

2. Legislative Framework

- 2.1 The Council has the discretion under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to licence rickshaws as hackney carriages. The power to licence rickshaws as hackney carriages has been subject to some debate but the position was clarified in the Court of Appeal (R v Cambridge City Council ex parte Lane – 13 July 1998).
- 2.2 Section 38 of the Town Police Clauses Act 1847 explains the definition of a hackney carriage as being “Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance”.
- 2.3 Furthermore the Local Government (Miscellaneous Provisions) Act 1976 permits the Council to impose conditions on the grant of a hackney carriage vehicle licence.

3. Policy Implications

- 3.1 The Council has a strict policy regarding the type and specification of vehicles, which may be licensed as hackney carriage vehicles.
- 3.2 Rickshaws would not meet this criterion. The Council can depart from its adopted policies if it considers there to be strong reasons for doing so. It is therefore possible for a rickshaw to be licensed.
- 3.3 As with Hackney Carriages, to ensure basic standards of fitness, certain requirements and conditions may need to be applied to any licence. A draft policy has been drawn up for consideration by Members. This policy is attached at **Appendix 2**.

4. Issues to Consider

- 4.1 The licensing of rickshaws in the borough would present a range of new and relevant issues, both negative and positive, for the Council to consider having no experience of such a service previously.
- 4.2 **Positive Considerations**
 - 4.2.1 Rickshaws offer an alternative and environmentally friendly form of public transport very much in keeping with the Council's priority of reducing carbon emissions in the borough.
 - 4.2.2 Operated on certain routes rickshaws may attract tourists wishing to use such a novel form of transport. Promoting Cheltenham as a tourist destination is also a Council priority and rickshaws could promote that priority.
 - 4.2.3 At certain times getting from one point to another in a rickshaw may well be quicker than in a car, especially during the busy summer season hour. Furthermore, taxi's in town are at times reluctant to accept short fares (for example from the Promenade to Montpellier) and rickshaws

may offer a pragmatic solution to this problem.

4.2.4 Rickshaws are unlikely to compete with existing licensed hackney carriages. The majority of their journeys will be for short distances and within a defined area of operation.

4.2.5 The licensing of rickshaws could help to enhance the Council's priority of reducing unemployment, by creating local jobs and providing another avenue for local businesses to advertise.

4.3 Negative Considerations

4.3.1 Fare Charges - The Council sets maximum Hackney Carriage fares and has a policy that all Hackney Carriage vehicles are fitted with taximeters.

Theoretically it is possible to fit a meter on a rickshaw, however this is considered impractical, as it would require a battery and waterproof enclosure, be expensive and inappropriate. Furthermore battery failure or loss of charge would require regular re-setting of the calendar control system.

Finally, a rickshaw is unlikely to ever go fast enough to allow charging by distance.

Members will note however that an alternative solution has been offered in draft policy.

4.3.2 Fare Refusal - A hackney carriage driver cannot refuse to take a fare within the district unless he has a reasonable excuse. If the driver is tired, or the distance considered too far, then there is the possibility that prospective passengers may not see this as a reasonable excuse. The Council will be obliged to investigate any complaints in this regard and take the appropriate action.

To alleviate the potential problem of drivers growing tired, it is proposed in the draft policy that the area of operation of rickshaws be limited.

4.3.3 Accessibility - The Council's current policy restricts the licensing of new hackney carriages to vehicles that are fully accessible by people with disability. Clearly rickshaws are not constructed to be wheelchair accessible neither would it be practical for them to be so. This will not enhance the Council's ability to offer more choices for people with disabilities in relation to public transport but neither would it detract as the current options available will be unaffected by any decision in relation to this report.

4.3.4 Also relevant to the issue of wheelchair accessibility and compliance with equalities legislation. Under the Government's current proposals at some point between 2010 and 2020 all hackney carriage vehicles in the borough must be wheelchair accessible. At this stage rickshaws do not appear to be exempt from this legislation. However, if the requirement to have a 100% wheelchair accessible fleet comes into force, the Council will be required to review its licensing policy in relation to rickshaws to comply with any new statutory regulations.

4.3.5 Taxi Ranks - Due to the town centre's layout and existing traffic management and flow arrangements, there would be insufficient highways infrastructure in place at present to accommodate multiple ranks for rickshaws. Although by consultation and changes to existing arrangements it may be possible to overcome the issue in the medium/long term.

Furthermore, the Council is permitted to control the number of hackney carriage vehicles, which use a particular taxi rank. However the legislation does not specifically indicate that the Council may appoint taxi ranks for specific types of hackney carriage vehicles. This may create difficulties if the Council attempt to appoint taxis ranks exclusively for the use of rickshaws. Any amendments to current taxi ranks or the introduction of a new rank is subject to statutory advertising and a period of time must be allowed for objections.

4.3.6 Safety – Rickshaws provide limited protection to passengers and driver. All makes/models of

motor vehicles normally undergo rigorous testing regimes and receive European approval before they are approved for use as a motor vehicle. Officers are not aware of any formal recognised safety standard for specifically rickshaws and it is a concern that the level of impact protection is negligible.

4.3.7 On the point of safety, Members must bear in mind that the ultimate aim of the licensing regime is public protection and safety and Members must be satisfied that public protection is not compromised by the introduction of such a licensing scheme.

4.3.8 Traffic Flow and Management - The Council recognise that rickshaws can present unique challenges with regards to traffic flow, highway access, obstruction and safety.

This is particularly relevant in Cheltenham town centre where:

a) a number of one way systems are in operation,

b) a significant section of the town centre being pedestrainised with limited vehicular access, and

c) on street parking combined with bus stops narrow the width of the road which can cause obstruction and difficulties with traffic flow.

4.3.8 In light of the above, Members may consider it appropriate to initially agree a trial period for the new licensing scheme.

5. Draft Policy – Proposals

5.1 Members are asked to also approve the draft policy for consultation attached at **Appendix 2**.

5.2 Although all the proposals are contained in the draft document, Member's attention is drawn in particular to the proposals below;

5.2.1 A requirement for drivers to provide evidence of having achieved *Level 3 of The National Standards for Cycle Training* using a rickshaw and must be able to provide certified documentary evidence of this achievement.

5.2.2 Level 3 Competence for all cycling trips - This level trains drivers to make journeys in a variety of traffic conditions competently, confidently and consistently. Cyclists reaching the Level 3 standard will be able to deal with all types of road conditions and more complex situations. The course covers dealing with hazards, making 'on-the-move' risk assessments and planning routes for safer cycling.

5.2.3 The Council considers it appropriate *to only licence purpose built tricycle rickshaws fitted with at least 2 passenger seats and of a design, which has the driver in the front or forward position and the passengers seated to the rear.*

5.2.4 It is not considered practical to licence mechanically propelled (to whatever extent) rickshaws in town. This is due to complication relating to parking, access and traffic flow.

5.2.5 With regards to fares, it is considered that the most simple and effective method of regulating the fares for rickshaws would be to *set a single maximum fare for each half hour or part thereof for each hiring.*

5.2.6 This would introduce a fare structure different from the Council's current adopted fares for Hackney Carriage. The Council can exercise discretion to adopt such a fare structure subject to it following the statutory procedure for adopting the fare structure. There will be a financial implication for doing so as the proposed fees will have to be approved, advertised and adopted but the cost will be recouped through licence fees.

- 5.2.7** For the reasons stipulated in the policy, it is proposed that the area of operation for licensed rickshaws be limited to the *core commercial area of the town and Evesham Road up to Walnut Close for access to Pittville Park*. A copy of the plan outlining the core commercial area is attached at **Appendix 3**.
- 5.2.8** *Driver Code of Conduct* for in respect of rickshaws is attached at Appendix A of the draft policy.
- 5.2.9** *Conditions attached the grant of a rickshaw hackney carriage licence* is attached at Appendix B of the draft policy.
- 5.2.10** A copy of the “certificate of fitness compliance sheet” referred to in the draft policy is attached at **Appendix 4**.
- 5.3** It is not proposed in the draft policy that rickshaw drivers be required, initially, to pass a knowledge test. The current knowledge test is not suitable for rickshaw drivers, largely due to the fact that they will be restricted to operate within a limited area and will be subject to different licence conditions.
- 5.4** However, if Members decide to approve the scheme subject to a successful trial, it will become necessary for the Council to introduce a special knowledge test. Alternatively, if Members consider a trial period to be unnecessary the scheme can be approved subject to the creation of a specific knowledge test.
- 5.5** Furthermore, in the event where Members may not wish to extend the scheme, it would be considered unreasonable to require drivers to complete a recognised NVQ qualification. This is largely due to the length of time it would take to obtain the NVQ and the possible financial burden on drivers to do so. However the requirement to obtain a NVQ could be imposed and applied retrospectively.
- 5.6** The vehicle and driver licences issued in respect of rickshaw hackney carriages will have effect in respect of rickshaws only and will not be transferable to be used for motor vehicles.

Licence Fees

- 5.7** It is proposed that the following fees apply;
- 5.7.1** Driver Licence – Adopt the current fee for taxi driver’s which is currently £90 for a one year licence or £215 for a three year licence. The Council is only entitled to charge for the cost of issuing a driver’s licence and the proposed application procedure for rickshaw drivers will not differ from the current procedure for licensing other taxi drivers and so the cost should remain the same.
- 5.7.2** Vehicle Licences – The Council is entitled to charge for enforcement, inspection and other costs associated with the issue of a vehicle licence but always on a cost neutral basis. It is not proposed that the application and ongoing admin procedures for rickshaw vehicles will substantially differ from the current procedure for licensing other taxi vehicles and so the cost should remain the same which is currently £200 which includes the cost of the licence plate.

6. Consultation

- 6.1** If Members are minded to approve the draft policy, it will be necessary to consult with a number of key stakeholders.
- 6.2** Formal consultation will be undertaken with the stakeholders to gain a wider view on the proposals in particular with reference to the impact, both positive and negative, licensing

rickshaws will have. These stakeholders are:

- Gloucestershire Highway
- Gloucestershire Constabulary
- Integrated Transport
- Town Centre Manager
- Hackney Carriage Trade
- Licensing Committee

6.3 It is not considered necessary to consult for the normal 12 weeks on this occasion. It is proposed that the consultation will run for 4 weeks.

6.4 A further report will be submitted to Cabinet following the consultation period to consider the outcome of the consultation.

6.5 Final adoption of the draft policy will be a Full Council function.

7. Equality Impact Assessment

7.1 There is a requirement on the Council to consider equalities as part of its decision making process and the effect decisions will have on different groups in the community.

7.2 To this end, the Council currently has a policy in place to restrict the issue of new hackney carriage licences to vehicles that are fully accessible by people with disability.

7.3 The Council, in deciding to licence rickshaws, will deviate from this policy since rickshaws are not, for example, constructed to be wheelchair accessible neither would it be practical for them to be so.

7.4 If Members are to approve the licensing of rickshaws, clearly then people with disabilities will be unable to use this form of public transport. Nevertheless, it is not considered that this will adversely impact on people with disability's access to public transport mainly because the current public transport options available for this group of people will not be affected by such a decision.

8. Reasons for recommendations

8.1 To seek Member agreement to issue licences in respect of rickshaws.

9. Alternative options considered

9.1 Members can decide that the licensing of rickshaws is not something that it considers appropriate for Cheltenham.

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Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Policy, Procedure and Conditions for Licensing Rickshaws 3. Map of “Core Commercial Area” 4. Proposed Certificate of Fitness Compliance Sheet
Background information	<ol style="list-style-type: none"> 1. Service Records

The risk				Original risk score (impact x likelihood)			Managing risk					
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
	If Cabinet approves the licensing of rickshaws there is a risk that the Council will be unable to effectively control this form of licensing unless it also adopts an appropriate policy.	Licensing & Business Support Team Leader	19/6/12	2	3	9	Accept	Adoption of the appropriate policy	TBC	Licensing & Business Support Team Leader		

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being negligible and 5 critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close