

Cheltenham Borough Council

Licensing Sub-Committee Miscellaneous – 3rd April 2024

Application for a transfer of a Hackney Carriage Vehicle Licence

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 My Taylor is seeking to replace his existing Hackney Carriage wheelchair accessible vehicle (WAV) licence (HCV12) with a saloon vehicle.
- 1.2 In practical terms there are usually 3 types of vehicle licence application: a new application, a renewal, and a transfer of a vehicle licence.
- 1.3 In 2021, the council introduced a policy for all Hackney Carriages to be Wheelchair Accessible Vehicles (WAVs) by 31st December 2021. This was the final date by which existing saloon vehicle proprietors had to change their vehicle to a WAV or to change to private hire . Mr Taylor changed his existing saloon vehicle to a WAV in August 2021 because of this policy requirement.
- 1.4 On 21 September 2021, the council determined to halt the implementation of this policy and to deliver a mixed fleet of WAV's and non-WAV's in-line with the Department for Transport Best Practice Guidance. The council decided that saloon type vehicles could continue to be licensed, pending the approval of a new and yet to be decided policy. Any new applications would still be required to be a WAV.
- 1.5 In 2023, Licensed Vehicle Emission and Wheelchair Accessibility Policy was produced which runs alongside the current policy and details the current vehicle replacement process. A copy is attached at **Appendix 1**.
- 1.6 In 2024, a draft policy was submitted for consultation which proposed that any driver in Mr Taylors situation - who had changed from a saloon to a WAV when the 2021 policy was produced - would be able to revert to a saloon vehicle. This was on the provider that the WAV remained on the fleet. The proposed policy has not yet been implemented following changes to the licensing team. It is proposed that the policy will be consulted upon at the end of February 2025.
- 1.7 Had Mr Taylor retained his saloon, the proposed vehicle (**see Appendix 2**) would comply with the Euro 6 replacement vehicle standards.
- 1.8 **The potential justification for members to approve this application would be to consider that discretion should be given in this case as a saloon vehicle was licensed under vehicle licence HCV124 until Mr Taylor replaced it with his current WAV as initially required by the 2021 policy. This WAV has been licensed since 13th August 2021. A number of vehicle proprietors were allowed to renew saloon vehicles following the September 2021 decision to not implement the WAV requirement for all vehicles. Had Mr Taylor not purchased his WAV he would have been able to renew his saloon vehicle.**
- 1.11 The sub-committee is asked to consider the matter and determine whether to:-
 - a) Grant the request for a transfer vehicle licence application when it is made in due course by treating it effectively as a renewal with a change of vehicle or
 - b) Refuse the request to transfer the vehicle licence as it does not adhere to current policy requirements.

- 1.12 Legal Implications** 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@onelegal.org.uk

2. Background

- 2.1 Permission is sought to make a transfer application for a Hackney Carriage Vehicle licence to replace a currently licenced WAV vehicle with a saloon.
- 2.2 The council had previously adopted a policy that non-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.
- 2.3 On 21 September 2021 the council decided not to complete that process. The council decided that existing saloon type (non-WAV) vehicles could continue to be licensed, pending the approval of a new and yet to be decided policy.

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 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 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 committee do depart from it they should provide clear and cogent reasons for doing so.
- 3.7 Whilst the council consider reviewing its vehicle policy, 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

- 4.3 Whilst Mr Taylor has a licensed WAV, this vehicle is currently suffering from faults which prevent it from being used. Mr Taylor has attempted to replace this vehicle with another WAV, however finding an affordable vehicle that meets all policy requirements is proving difficult.

Report Author

Contact officer: Jake Johnstone – Senior Licensing Officer

E-mail: licensing@cheltenham.gov.uk

Tel no: 01242 264135

Background Documents

Service Records

[Local Government \(Miscellaneous Provisions\) Act](#)

[1976](#)

[Statutory taxi and private hire vehicle standards](#)

[Taxi and private hire vehicle licensing best practice](#)

[guidance for licensing authorities in England](#)

[Cheltenham Borough Council's taxi and private hire policy](#)

Appendices

Appendix 1 – Cheltenham Borough Council's [Licensing vehicle emission and wheelchair accessibility policy 2023](#)

Appendix 2 – Proposed vehicle information

Appendix 3 – Email chain detailing HCV124 request