

Cheltenham Borough Council

Cabinet – 11 December 2012

Licensing of Rickshaws in Cheltenham - Rickshaw Safety

Accountable member	CLlr Peter Jeffries – Cabinet Member for Housing and Safety
Accountable officer	Sonia Phillips – Director Wellbeing and Culture
Ward(s) affected	All
Key Decision	No
Executive summary	<p>On the 25th of September 2012 Cabinet resolved to defer a decision on the licensing of rickshaws in the borough pending further information relating to safety issues.</p> <p>At the Cabinet meeting Mr Meyer requested a meeting to discuss his concerns relating to the proposed draft policy. This was facilitated by the Cabinet Member for Housing and Safety and took place on Friday 5th October 2012.</p> <p>Officers have sought further clarification on the points raised by Members and are now reporting back in conjunction with the report submitted to Cabinet on the 25th of September 2012.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Note the contents of this report, 2. Resolve whether it will approve the licensing of rickshaws in Cheltenham and whether a trial period is necessary, and 3. Subject to resolution 2, approve and recommend the draft amended policy for adoption by Council.
Financial implications	<p>There are no financial implications arising from this report.</p> <p>Contact officer: Sarah Didcote</p> <p>sarah.didcote@cheltenham.gov.uk, 01242 264125</p>

Legal implications	<p>The Council is responsible for the licensing of Hackney Carriages within the Borough of Cheltenham. Rickshaws fall under the definition of Hackney Carriages. As part of the licensing regime the Council can introduce policies which provide guidance on the requirements that the Council will seek when determining applications.</p> <p>There are no safety standards that specifically apply to Rickshaws. If however the Council grants any Hackney Carriage Licences in respect of Rickshaws the Council can grant those licences subject to conditions (which can include condition standards for design, use and safety) that the Council feel are necessary and proportionate.</p> <p>Contact officer: Sarah Farooqi</p> <p>sarah.farooqi@tewkesbury.gov.uk, 01684 272693</p>
HR implications (including learning and organisational development)	<p>There are no direct HR implications detailed in this report.</p> <p>Contact officer: Julie McCarthy</p> <p>julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	<p>As identified 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 In June 2012 Cabinet approved for the purpose of consultation a draft policy in respect of the licensing of rickshaws in the borough.
- 1.2 A consultation process was undertaken between June and July. During the consultation a large proportion of respondents raised issues relating to the safety of rickshaws. Furthermore, a report by the Transport Research Laboratory (“TRL”) highlighted further safety related issues.
- 1.3 As a result, Cabinet resolved in September to defer a decision pending further clarification on a number of safety related issues. The issues related to the existence of any recognised safety standards for rickshaws and further to address a number of safety related issues recognised in the TRL report.
- 1.4 This report addresses the specific issues and questions raised by Members.

2. Recognised Safety Standards for Rickshaws

- 2.1 There are currently no recognised safety regulations or legislation that specifically relate to the use or manufacture of rickshaws. There are in existence a number of regulations relating to bicycle safety which have been applied to rickshaws by both manufacturers and licensing authorities. These regulations are:
 - a) BS EN 14766:2005 Mountain-bicycles - Safety requirements and test methods or equivalent,
 - b) Pedal Cycle (Construction and Use) Regulations 1983,
 - c) Pedal Bicycle (Safety) Regulations 2003,
 - d) Road Vehicle Lighting Regulations 1989, and
 - e) The Electrically Assisted Pedal Cycles Regulations 1983.
- 2.2 Although the principles contained in the above regulations can and have been applied to rickshaws, Members should bear in mind that these regulations are intended to primarily deal with bicycle safety not cycles adapted for carrying passengers.
- 2.3 The lack of any recognised safety standards or regulations has largely been the reason why it has been necessary to apply the above regulations to rickshaws. Below is a brief breakdown of the regulations as they relate the scope of this report.

BS EN 14766:2005 Mountain-bicycles – Ensures that parts are properly manufactured and tested to comply with EU regulations.

Pedal Cycle (Construction and Use) Regulations 1983 – Deals generally with minimum construction regulations of bicycles and tricycles such as the requirement to be fitted with a braking system, steering etc.

Pedal Bicycle (Safety) Regulations 2003 – These regulations define, and therefore relate to, a bicycle as “...a two-wheeled vehicle that is propelled solely by the muscular energy of the person on that vehicle by means of pedals and has not been constructed or adapted for propulsion by mechanical power”. Again these safety regulations did not take into account rickshaws or any other cycle adapted either for mechanical propulsion or for carrying passengers.

Clearly, cycles adapted to carry passengers should be required to comply with the highest

possible safety standards. The Pedal Bicycle (Safety) Regulations 2003 deal with safety requirements for the average bicycle and additional safety concerns relating to cycles adapted or constructed to carry passengers would not have fallen in the scope of these regulations.

Road Vehicle Lighting Regulations 1989 – These regulations relate to the basic lighting and reflector requirements for, amongst others, cycles. As with the previous regulations above, the lighting regulations did not take into account, and therefore also do not specifically deal with, the additional lighting and reflector requirements that may be required for cycles adapted or constructed to carry passengers.

The Electrically Assisted Pedal Cycles Regulations 1983 – Deals with the class of electrically assisted cycles in terms of electric output and kerb weight.

- 2.4 A number of UK based manufacturers were contacted to ascertain which safety standards they apply when constructing rickshaws. The manufacturers contacted were H7 Engineering, Cycles Maximus and the Tartan Rickshaw Company. There was no response from the Tartan Rickshaw Company. Cycles Maximus confirmed verbally that they construct their rickshaws to the specifications contained in the above regulations in so far as it is possible. However, H7 Engineering stated in their response that because there is no one recognised safety standard applicable to rickshaws, most manufacturers apply and test to EN 14764:2005 standards but this, in their opinion, is wrong because the EN 14764:2005 safety standards do not apply to rickshaws.
- 2.5 H7 Engineering instead applies the safety standards that were set out in the 2006 Department for Transport and Transport for London public consultation on the licensing of rickshaws in London. The outcome of that consultation never made it onto the statute books but the standards mentioned in the consultation are nonetheless listed at **Appendix 2** for information.
- 2.6 Members will note from the Transport for London consultation document that they too proposed to apply the above mentioned regulations in the absence of recognised safety standards applicable to rickshaws.
- 2.7 In light of the above, Members must decide how much weight and assurance to attach to existing safety and manufacturing regulations. It is clear that these were never intended to deal with rickshaws as a separate type of cycle although as already mentioned, some aspects can be applied.
- 2.8 The lack of any recognised safety standards or regulations specifically in respect of rickshaws could put the Council in a difficult position because although most responsible operators would source their rickshaws from reputable manufacturers, an application for a “home made” rickshaw could legitimately be made. Provided the applicant uses BS approved parts and complies with the Council’s adopted policy, the Council will find it difficult to find grounds for refusal.
- 2.9 Officers are not currently proposing a maximum age limit on rickshaws primarily because the reasons such a rule applies to motor vehicles would not apply to rickshaws such as for example, emission standards. The draft policy does propose that rickshaws be tested and inspected at least annually to ensure basic safety compliance.

3. Findings of the TRL Report

- 3.1 In addition to the above, Members have also requested that a number of safety related issues mentioned in the TRL report be addressed. These are listed below:
 - a) Crash testing of vehicles,
 - b) Lap belt design unsuitable for children,

- c) Braking performance of a laden pedicab significantly lower than of a car,
- d) Unladen/lightly laden stability, and
- e) Slow reaction time by riders.

- 3.2** The number of safety related issues identified in the TRL report cannot further be addressed or eliminated because in essence a rickshaw is a cycle adapted to carry passengers therefore the scope for enhanced safety features is somewhat limited. Some measures can be put in place to mitigate some of the safety issues such as better visibility, rider training and regular safety inspections but in essence, and for the reasons mentioned above, they are manufactured as safe as is possible with such a type of vehicle.
- 3.3** For example, although it is recognised that the lap belts fitted in rickshaws are not entirely suitable there are no alternatives due to lack of any other suitable anchorage points.
- 3.4** Equally, very little can be done to deal with the braking and handling issues again due to the nature and construction of rickshaws.
- 3.5** The safety risk should be balanced against the likelihood of an incident occurring in the first instance. Unfortunately as mentioned in the previous report, since rickshaws have never been licensed in the borough a measure of the likelihood of incidents occurring in the first place is not possible to quantify beyond speculation.
- 3.6** In light of the above, it is accepted that rickshaws will cause some measure of congestion particularly in the town centre which could be a contributing factor. Also the likelihood of incidents affecting public protection occurring will be increased during late night operation as a result of diminished visibility and anti-social behaviour.

4. Options

Imposition of Relevant Conditions

- 4.1** In the absence of any recognised safety standards particularly in relation to rickshaws, the Council has a number of options available to it if it were to resolve to licence rickshaws.
- 4.1.1** Option 1 - The Council can impose its own safety standards by way of conditions attached to the issue of a rickshaw licence. However, Members are to note that officers do not have the required technical knowledge to undertake such a project therefore more specialist input would be required. Furthermore and as has already been alluded to in this report, officers are of the opinion that rickshaw safety standards cannot substantially be enhanced beyond existing standards.
- Members are to note that draft conditions have been drawn up and these are contained at Appendix B of the draft policy.
- 4.1.2** Option 2 - The Council can adopt the current safety standards insofar as they can be applied to rickshaws, the implications of which have been discussed in this report.
- 4.1.3** Option 3 – The Council can choose not to adopt any standards although this is not considered a viable option.

Taxi Law Reform Proposals

- 4.2** Alternatively, Members can decide to defer a decision pending the outcome of the Law Commission's proposals to reform taxi licensing law.

- 4.3** The purpose of licensing is to ensure public protection and safety. If Members are not satisfied that the current legislative provisions in place in respect of the licensing of rickshaws are sufficiently robust to ensure public protection, then Members are encouraged to resolve not to licence them in the borough.
- 4.4** The law commission recently consulted on a number of taxi law reform measures which included a proposal to properly incorporate rickshaws and similar types of vehicles into the licensing regime. It was further proposed that guidance from central government with regards to minimum vehicle standards would also be issued in respect of, in this case, rickshaws. New draft legislation is expected to be introduced in 2013.

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Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Transport for London Consultation on the Licensing of Pedicabs, June 2006 – Appendix C 3. Amended Draft Policy
Background information	<ol style="list-style-type: none"> 1. Officer report and minutes from Cabinet - 25th of September 2012 2. Law Commission Consultation on Taxi Law Reform 3. Transport for London Consultation on the Licensing of Pedicabs, June 2006 (http://www.docstoc.com/docs/47382075/Consultation-on-the-Licensing-of-Pedicabs#)

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
	There exists the possibility that the licensing of rickshaws could adversely affect public safety for the reasons contained in this report.		25 Sept, 2012	4	3	12	Accept	Based on the feedback and supporting evidence, Members must make a judgement with regards to the likely adverse effect on public safety and base a decision to licence rickshaws accordingly. If adopted, close monitoring will have to be undertaken and if required, suspension of the scheme must be considered.	Ongoing		
	Rickshaws are not able to offer transport options for people with disabilities and a decision to licence these does adversely impact on equalities.			2	2	4	Accept	Monitoring and feedback.	Ongoing		
	Any adverse impact on public safety resulting from the licensing of rickshaws will adversely affect the Council's reputation.			2	4	8	Accept	If adopted, close monitoring will be required and if required, suspension of the scheme must be considered to mitigate further damage.	Ongoing		
	The licensing of rickshaws will require additional enforcement resources to properly control.			2	4	8	Accept	The impact on additional resources required will be monitored against the effectiveness of supply of these additional controls.	Ongoing		

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or 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