



City of Cardiff Council

**'Intended Use'/Remote Trading of Hackney Carriages
Policy**

DRAFT

Date: October 2016

1 Introduction

- 1.1 The purpose of this policy is to set out how the Council of the City of Cardiff will ensure that applications for the grant of hackney carriage licences are determined in accordance with the guidance given by the High Court in its judgment, and the declaration made in the case of Newcastle City Council v Berwick upon Tweed Council [2008].
- 1.2 The Council will determine each application on its merits, but will place public safety above all other considerations, seeking to maintain local control in respect of its licensed fleet.

2 Applications for the grant or renewal of a hackney carriage licence

- 2.1 Applicants for the grant or renewal of a licence will be expected to demonstrate a bona fide intention to ply for hire within the City of Cardiff under the terms of the licence for which an application is being made.
- 2.2 The City of Cardiff Council currently has a limit in place in respect of the number of hackney carriage licences it issues. In the event of this restriction being removed, this policy will apply to new applications for the grant of a hackney carriage licence.
- 2.3 There will be a presumption that applicants who do not intend to entirely or predominantly ply for hire within the City of Cardiff will not be granted a hackney carriage licence authorising them to do so. Each application will be decided on its merits.
- 2.4 Section 60 of Local Government (Miscellaneous Provisions) Act 1976 gives the council a broad discretion to refuse to renew a licence for any reasonable cause. This intended use policy will also apply for renewals in the same way as for the grant of the licence. Each application will be decided on its merits.
- 2.5 Even where an applicant intends to ply for hire entirely or predominantly in the City of Cardiff, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular application, there will be a presumption that the application will be refused.

3 Applications for the transfer of a hackney carriage licence

- 3.1 Should the hackney carriage licence be transferred to another proprietor during the term of the licence, the new proprietor will be asked to inform the Council whether he/she has a bona fide intention to ply for hire within the City of Cardiff. New proprietors should note the obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give an authorised officer information which may reasonably be required for the purpose of carrying out their functions under the legislation. Where there is a failure to provide requested information, in addition to its powers under section 73, the Council may give consideration to exercising its powers to suspend the licence under section 60 of the 1976 Act until such information is forthcoming.
- 3.2 New proprietors of licensed hackney carriages will be expected to have a bona fide intention to ply for hire within the City of Cardiff under the terms of the licence in respect of the vehicle being transferred.
- 3.3 If the new proprietor of a licensed hackney carriage is found to have no intention to ply for hire entirely or predominantly within the City of Cardiff and/or intends to trade in another authority's area for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, consideration may be given to suspend or revoke the licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976. Where the new proprietor proposes to operate remotely from the administrative area of the City of Cardiff there will be a presumption that his licence will be revoked. However, each case will be decided on its merits.

4 Applications for the replacement of a hackney carriage licence

- 4.1 When a proprietor replaces a licensed vehicle, they will be asked to inform the Council of their intended use of the new vehicle. There will be a presumption that applicants who no longer intend to ply for hire entirely or predominantly within the City of Cardiff will not have the new hackney carriage licence granted. Even where the applicant intends to ply for hire entirely or predominantly in the City of Cardiff, if the intention is to trade in another authority's area also for a substantial amount of time (and it appears that the purpose of the legislation and public safety will be compromised) then, subject to the merits of the particular case, there will be a presumption that the application will be refused.
- 4.2 Where a licence has been granted under the terms that the applicant intends to ply for hire entirely or predominantly within the City of Cardiff but is subsequently found not to be plying for hire entirely or predominantly in the City of Cardiff and/or to be trading in another authority's area for a substantial

amount of time (and it appears that the purpose of the legislation and public safety will be compromised) the licence may be revoked. The decision on whether to refer such a matter to the Public Protection sub-Committee will be decided on its merits by a senior officer.

5 Exceptional circumstances

- 5.1 Each application will be decided on its merits. However, the requirement that applicants ply for hire entirely or predominantly within the City of Cardiff and do not trade in another authority's area for a substantial amount of time will be rebuttable in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that it would not compromise the purposes of the legislation or compromise public safety if the licence were granted, renewed or if were not suspended or revoked as the case may be.