

**PUBLIC PROTECTION COMMITTEE: 1 November 2016**

**Report of the Head of Regulatory Services**

**EXCEPTIONAL CONDITION POLICY**

**1. Background**

- 1.1 Licensing legislation gives local authorities the duty to ensure that the vehicles it licences for the purpose of hire and reward are of a suitable type to provide a safe and comfortable service. With this in mind the City of Cardiff Council's Taxi Licensing Policy specifies the maximum age that vehicles can continue to be licensed.
- 1.2 In *Sharpe Vs Nottingham City Council* 1981, a Crown Court decision, suggested that there should not be a blanket policy with regards to vehicle age restrictions. However, an age restriction policy, subject to an exception for an exceptionally well maintained vehicle, was considered to be lawful.
- 1.3 In Cardiff the vehicle age policy is applied flexibly, and licensed vehicles are often permitted to continue to operate beyond the maximum licensable age.
- 1.4 Cardiff's licensed vehicle fleet is aging and the current system doesn't provide consistency for assessing the suitability of older vehicles. It is therefore proposed that the council adopt an 'Exceptional Condition Policy' for dealing with applications for vehicles to remain licensed beyond the maximum licensable age.

**2. Current Age Restrictions.**

- 2.1 The current Policy states the following maximum licensable ages for vehicles:
  - Saloon car: 6 years
  - Prestige vehicle: 10 years
  - Purpose-built vehicles: 10 years
- 2.2 At the time of writing this report, 30% of the hackney carriage fleet are over the maximum licensable age, with the oldest licensed vehicle being 14 years old. The situation is better with private hire vehicles with 8% being over the maximum licensable age, but the oldest licensed vehicle is 17 years old.

- 2.3 The decision to allow vehicles to be licensed beyond the maximum age was, until recently, made by elected members of the Public Protection Committee, who, undertook a brief inspection of the vehicle and made a decision whether to extend the licence based upon the overall visual appearance on the vehicle. In 2015, this role was delegated to officers, who have continued to make decisions based upon the overall appearance of the vehicle.
- 2.4 To make the process of determining the suitability of vehicles to be licensed beyond the maximum licensable age more consistent and transparent, an 'exceptional condition policy' has been drafted which sets out what is 'exceptional' and is therefore suitable to be licensed beyond the maximum licensable age.

### **3. Exceptional Condition Policy**

- 3.1 The term "exceptional condition" is used to describe vehicles which are over the maximum licensable age, but can continue to be licensed because of their condition.
- 3.2 In order to be considered to be in exceptional condition the vehicle must meet all criteria detailed in the Policy.
- 3.3 The draft policy is set out in appendix A
- 3.4 The standard detailed in the policy includes items that are not included in a standard MOT such as the condition of the paintwork and the condition of the interior of the vehicle, to ensure that the vehicle is still fit to transport the public safely and comfortably.
- 3.5 Vehicle proprietors that wish for their vehicle to be considered for licensing beyond the maximum licensable age will be given a copy of the policy on application so that they will be aware of the required standard before they present their vehicle for inspection.

#### **4. Consultation**

- 4.1 The policy was discussed at the Taxi Forum in November 2015 and again in September 2016. The attendees of the forum were in favour of the proposals
- 4.2 It should be noted that the proposal in November 2015 included plans for the inspection of vehicles to be undertaken by Cardiff Transport Services with the cost of the inspection being paid by the vehicle proprietor, however objections were received from the Trade and as a result this matter has been reconsidered and the charge for testing has been removed from the policy.
- 4.3 The draft proposals were also emailed to all members of the Taxi Forum to provide comments. No written comments were received.

#### **5. Legal Implications**

- 5.1 The City of Cardiff Council currently operates a flexible policy which permits vehicles to operate beyond the maximum licensable age. It is intended that this will continue, but the Exceptional Condition Policy will ensure that those vehicles are in suitable condition to continue to be licensed. This approach is in line with the Crown Court ruling in Sharpe Vs Nottingham City Council 1981.
- 5.2 All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

#### **6. Financial Implications.**

- 6.1 There are no direct financial implications for the licensing section as a result of this report.

**7. Recommendation**

7.1 It is recommended that the Committee:

- a) Determine the implementation of an Exceptional Condition Policy as detailed in Appendix A
- b) If agreed, it is recommended that a suitable implementation date for the policy is determined. The Officer recommendation is 7<sup>th</sup> November 2016.

**Dave Holland**  
**HEAD OF REGULATORY SERVICES**

**14 October 2016**

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None