

PUBLIC PROTECTION COMMITTEE: 4 February 2020

Report of the Head of Shared Regulatory Services

**CONSIDERATION OF THE USE OF DARKENED GLASS IN RESPECT OF
LICENSED VEHICLES**

1. Background

- 1.1 At its meeting of 3 July 2018, the Public Protection Committee considered a report in relation to whether the vehicle licence condition restricting the use of darkened glass should be removed. Cardiff Council is one of only a few local Authorities in Wales that has such a requirement. The condition states:

Windscreen & Windows

'To be in a good clean condition and free from damage. The windscreen must allow at least 75% of light to pass through with all other windows allowing 70% of light to pass through.'

- 1.2 The Committee resolved to allow the use of darkened glass (glass that lets less than 70% of light to pass through) that is manufacturer fitted in licensed vehicles, provided that a Council approved interior CCTV system was installed.
- 1.3 A subsequent report was considered by Committee at its meeting of 7 August 2018 explaining the need to ensure that any approved CCTV system complies with all legal requirements, and as a result the Committee resolved to delay implementation of the change of vehicle licence condition until approval of a CCTV specification criteria.
- 1.4 A subsequent report was considered on 6 November 2018. The report explained that a policy that mandates CCTV would require an evidential basis as part of the privacy impact assessment. However, there was no evidence at present to support the mandatory requirement of CCTV in vehicles with darkened glass. This requirement could result in the use of CCTV in these circumstances as being viewed by the Information Commissioner as being disproportionate and open to legal challenge.
- 1.5 It was stated in the July Committee report that there was no evidence available to indicate that removing the darkened glass condition would

increase safety concerns. An Inspector from South Wales Police was quoted saying:

'I don't believe that we have any evidence based/analytical work done on offences or safety concerns around darkened glass. I think because of this and that it will be fitted during the manufacturing stage it would be difficult to raise any valid objections.'

- 1.6 The July report also provided details of a trade consultation that took place in 2017 asking 'should Cardiff Council allow darkened glass in hackney carriage and private hire vehicles?' Sixteen drivers completed the survey and the results found that 62.5% of respondents believe that the council should allow darkened glass in both hackney carriage and private hire vehicles, 25% of respondents believe that only private hire should be allowed to have darkened glass; and 12.5% of respondents believe that darkened glass should not be permitted in either hackney carriage or private hire vehicles.
- 1.7 In recent months, the Licensing Department have received reports from the trade relating to difficulty in having their glass replaced, as manufacturers are increasingly not supplying glass that complies with the current licence conditions. This has created an issue whereby vehicle proprietors are having to use third parties to source replacement glass which can have implications for the manufacturer warranty of the vehicle as they are using non-manufacturer approved glass. Some modern vehicles also use the fitted glass for the antenna for communication equipment such as the radio and satellite navigation. Therefore, when the glass is replaced with non-manufacturer fitted glass this can affect the antenna. Attached at Appendix A and B are recent letters to the Licensing Department from the trade related to the difficulty in replacing glass.
- 1.8 As previously reported at the March 2019 Public Protection Committee relating to the introduction of emission standards for licensed vehicles, the Licensing Department intend to implement a phased policy of vehicle improvement, beginning with removing the oldest and more polluting vehicles from the city's roads and transitioning to the long-term target of achieving a 100% zero emission fleet of licensed vehicles. Vehicles are increasingly being manufactured with darkened glass as standard and vehicle proprietors will find it increasingly difficult to purchase vehicles with non-darkened glass and the potential economic burden of meeting the emission requirements.
- 1.9 In light of the above, the Cardiff Hackney Carriage Alliance, who are the Licensing Department's recognised trade organisation, have formally requested that the authority reconsider amending the vehicle conditions to permit the use of manufacturer fitted glass. As with all vehicles, those

manufactured with darkened glass would have undergone vigorous safety checks and must comply with all relevant legislation and type approval. There is no suggestion that the use of these vehicles at night or in poor light conditions would create any problems of light transmission and reduced visibility for the driver.

- 1.10 The Cardiff Hackney Carriage Alliance have provided documentation in support of their request, these documents are detailed at Appendix C and D.

2. Achievability

- 2.1 This report contains no equality personnel or property implications.

3. Legal Implications

- 3.1 Sections 48 (1) (a) (i) (iv) and (v) of the Local Government (Miscellaneous Provisions) Act 1976 stipulate that the Council shall not grant a private hire vehicle licence unless it is satisfied that the vehicle is suitable in type size and design for use as a private hire vehicle, safe and comfortable. Further, if a licence is granted the Council may attach such conditions to it as it considers to be reasonably necessary.
- 3.2 Under section 47 of the Act the Council may attach to the grant of a Hackney Carriage licence such conditions as it may consider reasonably necessary. The range of conditions is wide and can therefore encompass safety, comfort and design.
- 3.3 Applicants have the right of appeal to the Courts against the refusal of a licence or conditions attached to a licence. Council policies may be challenged by way of judicial review.
- 3.4 Legal implications in relation to data protection issues are found throughout the body of this Report. In particular the Code of Practice issued by the Information Commissioner's Office must be given considerable weight. Any condition relating to CCTV which cannot be justified as proportionate to identified needs is vulnerable to legal challenge. Assessments must be based on reliable evidence. As there is no such evidence available it is not possible to impose a condition requiring CCTV at the present time.

4. Financial Implications.

- 4.1 There are no financial implications arising directly from this report.

5. Recommendation

5.1 It is recommended that the Committee resolve to either:

a) Remove the hackney carriage & private hire vehicle licence condition stated in paragraph 1.1 (relating to darkened glass) and replace with:

'Windscreen & Windows

'To be in a good clean condition and free from damage. All windows must comply with relevant legislation in respect of light transmission. Only original vehicle manufactured tints are permitted on the rear windows. '

Or;

b) Retain the hackney carriage & private hire vehicle licence condition stated in paragraph 1.1 (relating to tinted glass)

6. Reasons for Recommendation

6.1 To ensure that any conditions made in respect of vehicle licence conditions remain proportionate.

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HEAD OF SHARED REGULATORY SERVICES

2 January 2020

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

Background Papers:

- Report of the Head of Shared Regulatory Services: 'Consideration of the Use of Darkened Glass in Respect of Licensed Vehicles'. 3 July 2018
- Report of the Head of Shared Regulatory Services: 'CCTV Systems in Licensed Vehicles' 7 August 2018
- Report of the Head of Shared Regulatory Services: 'Consideration of the use of darkened glass in respect of licensed vehicles' 6 November 2018
- Report of the Head of Shared Regulatory Services: 'Update to the age, emission and testing requirements of hackney carriage and private hire vehicles' 5 March 2019
- The Law Commission Consultation Paper 203 - Reforming the Law of Taxi and Private Hire Services - Consultation Response (August 2012)