

CHANGES TO OPERATOR LICENCES

Executive Summary

This report presents proposed changes to the Private Hire Operators licensing regime

The proposed changes include

- i) A procedural change in licensing multiple Private Hire Operator names; the requirement for Private Hire Operators to undertake and pass a Knowledge Test for Operators; and
- ii) the introduction of the regulation of materials used for Operators Door Signage.

Should the Licensing Committee be so minded, it is proposed that the proposed changes are subject to consultation with the trade and the results of the consultation reported back to the next Licensing Committee.

Recommendations

The Committee is requested to:

RESOLVE That

the Licensing Authority undertake consultation with the Private Hire Trade in respect of introducing

- (i) a procedural change in licensing multiple Private Hire Operators, including a fixed fee of £10.50 for each additional name;
- (ii) the requirement to undertake and pass a Knowledge Test for Operators; and
- (iii) a requirement for Operators door signage to be sticker/vinyl as opposed to magnetic.

The Committee has the authority to determine the recommendation(s) set out above.

Background Papers: None.

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1.0 Introduction

- 1.1 In the words of the Institute of Licensing, “A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or unacceptable purposes. As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers”
- 1.2 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”), which was adopted by Woking Borough Council in 1977, gives the Licensing Authority the powers to issue licences for Taxis, Private Hire Vehicles and Private Hire Operators. In order to do this, each authority is tasked with drafting with its own set of policy, practice and guidance. As such, the actual set rules of the Act are few and far between and it is the Licensing Authorities role to ensure that those licenced are ‘fit and proper’ to do so, thus ensuring the safety of the travelling public.
- 1.3 Section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976 states that a council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary. In order to assist Licensing Authorities with this task, the Government has produced suggested ‘good practice’ guidance giving a basic skeleton set of conditions to which an Authority can build from. These good practice guidance formed the basis of the vast majority of the conditions for Private Hire Operators all across the U.K.
- 1.4 The Operators Licence is therefore issued to the applicant by Woking Borough Council (as the Licensing Authority) and conditions are attached in order to maximise good practice and safe working standards of Operators, thus ensuring the safety of the travelling public.
- 1.5 A copy of these conditions is attached as Appendix 1.
- 1.6 Since the conditions and practices for Taxi and Private Hire legislation were introduced over forty years ago, great changes have taken place with regard to the drivers and vehicle licences. However, there has been little change to the Operators Licences and the requirements to obtain one. It is therefore our view that certain changes need to be made to ensure that the Operators continue to be safe, secure, open and trustworthy, understanding of their requirements, safely provide for their drivers, and above all – knowledgeable of the law.
- 1.7 It is therefore proposed to make three amendments to the practice and requirements of Operators Licences.
 - i) a procedural change in licensing multiple Private Hire Operators. Any “trading as” name will be issued as a separate but linked licence. It is proposed to include a fixed fee of £10.50 for each additional name to cover administrative costs;
 - ii) The introduction of a Laws and Standards Knowledge Test to ensure that Operators are able to show an understanding of the laws they are required to comply with, and we as the Licensing Authority are able to evidence that understanding.
 - iii) An amendment to the materials required in door signage, to prevent accidental and intentional breaches of the Licensing Conditions, thus ensuring Operators and Drivers are compliant with their licence at all times.

2.0 Operators 'Trading As' Names

- 2.1 When an Operator applies for a licence or for a renewal of a licence, he or she is requested to provide the details of the company they are trading as. This is to provide an easily identifiable company name to ensure accountability and thus – any actions taken by operators easily traceable.
- 2.2 If we apply the “average man on the Clapham Omnibus” test, it is more likely that he will remember the name of the cab company they booked with as opposed to the Licence number or owner’s name. At no point during the booking processes is there any requirement or reason for the customer to be given the Licence Holders name or their licence number.
- 2.3 A fictional example is below – which of these are you most likely to remember the day after you booked a cab with the following company?

Trading as: Airborne Cars

Licence number: 19/00326/TXPHO

Licence Holder: David Allaway

- 2.4 Within Woking – we all know the names of the established Private Hire Operators – but the vast majority of us could not name the person who is the licence holder for that company or their Licence number.
- 2.5 Historically within the Borough Private Hire Operators have listed numerous trading as names however recently this has caused issues with some companies listing multiple names, and in some cases listing the names they are “trading as” as more than ten different companies.
- 2.6 It is important to note that the term ‘trading as’ on an Operator’s Licence is not to be confused with ‘trading as’ as, say, Companies House may view it. It does not relate to limited companies but relates to the name they run the Private Hire vehicles under.
- 2.7 It is considered that having multiple listed “trading as” names is detrimental to the smooth and safe running of the Private Hire Operators in Woking.
- 2.8 This is primarily because it causes confusion for the public and makes it difficult for the Licensing Authority to regulated.
- 2.9 Having multiple ‘trading as’ names makes it very difficult for the Licensing Authority to carry out the relevant enforcement. Each time an issue arises, we have to start by working out exactly which company we are dealing with.

Example: The Licensing Authority received notification of a complaint that had been sent to Guildford Licensing Authority, from a member of public that had had a substandard service. The complaint related to an operator called with Guildford in its title which lead the members of public (two blind men, with dogs, who had been sent a driver with a phobia of dogs) had naturally sent the complaint to Guildford Licensing Authority. Guildford had identified that they were not a Guildford Licenced operator and referred it over to Woking Licensing to see if we could assist. After much researching we discovered that the operator was a “trading as” name of another Licensed company, a Woking Licenced Operator. A situation that could have been rectified much easier had we had a marginally stricter system for organising and registering licenced operators.

- 2.10 Following consultation with other Licensing Authorities across the UK, the general consensus appears to be that they didn’t have any such policy relating to limiting the number of ‘trading

as' names. This seems to be because in most authorities, the companies do not request it and as such it has never become a problem.

- 2.11 The Licensing Authorities proposal therefore is to issue one licence per named Operator. Any "trading as" name will be issued an separate licence with a unique reference number linking back to the "parent" licence. The Licensing Authority proposes to provide an administrative fee for this service. The proposed fee being set at £10.50 per "trading as" company name. (A private Hire Operators fee is £280) The proposed fee is in line with current charges and would cover the cost of the additional work undertaken by the team. This change in procedure will allow a clear and transparent system to both the customer and Licensing Authority.
- 2.12 It is proposed that this procedural change is implemented upon renewal of each licence or upon each request to add a new "trading as" name to a licence.

3.0 Operators Knowledge Test Introduction

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 is the main piece of guiding legislation for Private Hire Operators and sets the foundation for how they are required to behave.
- 3.2 Failure to comply with the Local Government (Miscellaneous Provisions) Act 1976 is an offence, which can result in the licence holder becoming liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 3.3 As you will see from Appendix 1, the Operators Licence Conditions, there are quite a few requirements that an Operator is required to comply with in order to prevent offences being committed.
- 3.4 Operators Licences have been issued to those who are able to present a recent and clean Disclosure and Barring Service Check and make the relevant payment.
- 3.5 In 2017 Officers of the Licensing Department drafted a "Private Hire Operator Licence" Pack which provides the Operators with full guidance on the process and practices required to ensure safe and proper running of their businesses. On all application forms and renewal forms, a tick box was added so that the applicant had to tick it to confirm that they had read this guidance.
- 3.6 The Operators Pack and Guidance is attached as Appendix 2.
- 3.7 Unfortunately it is evident from incidents that have happened both before the guidance was produced and afterwards – that some Operators are not suitably displaying the correct understanding of their legal requirements.

For example: Condition 1 on the Operators Licence Conditions (Appendix 1) relates to the requirement to keep logs of every journey that their drivers carry out. This is mainly in relation to Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 which states that

"Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may, by condition attached to the grant of the licence, prescribe and shall enter therein, before the commencement of each journey, such particulars of every booking of a private hire vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the district council may by condition prescribe and shall produce such record on request to any authorised officer of the council or to any constable for inspection."

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As such you can see that this is not a condition attached by the Local Authority – but a nationally required piece of legislation. Despite this – we have had cases where Operators are still failing to comply with this condition. Not just the small and new ‘one man band’ Operators, but there have been some situations recently where some of Wokings well established running Operators have been failing to comply with this condition.

3.8 The Licensing Authority feels that a ‘Knowledge Test’ for holders of Operators Licences would be of huge benefit as it would ensure that applicants and licence holders are fully familiar with the laws that surround their occupation.

3.9 The Licensing Authority therefore proposes the following

- i) **The Knowledge Test would be a multiple choice test on the laws and standards required of an Operator, similar in style to the ‘Laws and Standards’ Knowledge Test that is required by all drivers, but with a heavy lean towards the requirements of the Operators Licence.**
- ii) **There would be around 40 questions, all multiple-choice and all based upon Conditions seen in Appendix 1 and the guidance as seen in Appendix 2.**
- iii) **The requirement for a pass rate would be 100%, the same as is required for the Laws and Standards for drivers. This is due to the high level of importance in knowing the laws and ensuring that no offences are committed accidentally.**
- iv) **The cost of the Operators Knowledge Test would be £15.00. This is the same as the cost of the Knowledge Test required for Private Hire and Hackney Carriage applicants. The price is worked out on the basis of the staffing time of monitoring the test, the staffing time for marking the test and the cost of materials.**
- v) **All new Operators Applicants would be required to pass this test prior to being issued a licence.**
- vi) **In general, all existing Operators will be required to pass this Knowledge Test prior to the next renewal of their Operator Licences. Those Operators to whom the renewal dates are very soon (e.g. next month) may be permitted to have extra time to complete the test (e.g before their next renewal in a year and a month). This will be at the Authoritys discession.**
- vii) **Those Operators who do not complete the Knowledge test will not have their licences issued / renewed until such time as the Authority is able to evidence that they have a sufficient level of understanding through the completion of the Knowledge Test.**

4.0 Operators Door Signage Regulations

4.1 As you will see from the Operators Licence Conditions in Appendix 1, it is a requirement of the Operator to ensure that all his vehicles given jobs are properly signaged up with the Operators Door Signs.

It shall be the responsibility of the Operator to ensure that all private hire vehicles under his control display the door signs in accordance with the conditions below:

- (i) **The sign shall be displayed on the front doors of the private hire vehicle only.**

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- (ii) **The sign shall only give details of the name, address and telephone number of the private hire company from which the licensee obtains his clients.**
- (iii) **The word 'taxi' or 'cab' whether in the singular or the plural should not form part of the sign.**
- (iv) **The proprietor should be able to easily remove the sign should the vehicle's licence be suspended, revoked or not renewed, and he shall be responsible for its removal.**
- (v) **The proprietor shall submit for the approval of the Council the proposals for the sign prior to its display.**
- (vi) **These signs are compulsory.**

4.2 The importance of these conditions are echoed by the fact that they are also a condition on every Private Hire Vehicle Licence.

The proprietor will ensure that:

- (a) **the sign shall be displayed on the front doors of the Private Hire Vehicle only**
- (b) **the sign shall only give details of the name, address and telephone number of the Private Hire company from which the licensee obtains his clients**
- (c) **the word 'taxi' or 'cab' whether in the singular or the plural should not form part of the sign**
- (d) **the proprietor should be easily able to remove the sign should the vehicle's licence be suspended, revoked or not renewed, and he shall be responsible for its removal**
- (e) **the proprietor shall submit for the approval of the Council the proposals for the sign prior to its display**
- (f) **the signs will remain on the vehicle at all times that the vehicle is licenced and should not be removed, even when the proprietor is not working.**
- (g) **these signs will be compulsory from 1 January 1994**

4.3 Further to the above, the current Taxi and Private Hire Guidance states the following:

51. Door signs (Private Hire only)

PHV that are not exempt from displaying the licence plates (as per Appendix L) must display door signs for the Operator they are currently working for in line with the conditions of their licence. The information contained on the front door signs must be confined to the name, address, telephone number and logo of the business Operator. Phrases such as 'Pre-booked' or 'Advanced Bookings only' will be acceptable. Door signs shall be of a uniform size and design not exceeding 800mm wide and 500mm high.

4.4 The requirement that a Private Hire Vehicle be easily identifiable is evident from an example of an incident that took place in Guildford in 2018.

Example: A Private Hire Vehicle had gone to Guildford to collect a fare paying passenger that had booked through the drivers Operator. Unfortunately the driver of the vehicle did

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not have any of his 'Operators door signs' on his vehicle whilst he was carrying out this job, and was therefore in breach of his Operators Licence.

When he got to the pick up location, he spotted a person waiting there. Thinking this was probably his fare, he called out to the member of public something along the lines of "Are you looking for a taxi?"

It is unfortunate luck that the person who was stood there was a Local Authority Licensing Officer who happened to be carrying out some nighttime enforcement on the subject of illegal plying for hire (i.e. Private Hire Vehicles calling out to members of the public and taking jobs NOT booked through their operator.) The actual person that the driver was supposed to be collecting had been unable to see any identification on the sides of the drivers vehicle and so did not know it was a Private Hire vehicle. Had the driver been compliant with his licence, the member of public would have been able to identify the vehicle (displaying signs for the company they booked with) and approach it accordingly.

In this situation – we were able to contact the drivers Operator and their logs confirmed that the driver in question was indeed supposed to be collecting a passenger on or around that time and that location, and so no enforcement action was required. However it was a waste of both Woking Officers time and Guildford Officers time getting to the bottom of it.

- 4.5 As you will see from the Conditions listed in 4.1 and 4.2, they specify that the door signs are a requirement but they do not specify what material the signs should be.
- 4.6 Some Operators in the Woking Borough can be seen using vinyl type stickers (similar to the Vinyl Door signage favoured by Guildford Borough Council). These stickers are adhesive vinyl plastic and are a semi permanent fixture. They cannot be easily removed, but they are not damaging to the vehicle – and can be removed with application of heat (for example a hair drier or heat gun), which should leave no marks or damage the vehicle in any way. Many authorities (Surrey Heath, Runnymede etc) also use these vinyl stickers for the rear bumper plate display.
- 4.7 Some Operators choose to use magnet based door signs. It is these door signs that we have the most issue with and we are seeking to make the amendments to the policy to ensure that they are no longer used.
- 4.8 Chasing up Private Hire Vehicles who are failing to display door signs takes up a disproportionate amount of officer time. Drivers are regularly seen and written to about their failure to comply and this often results in telephone conversations and vehicle inspections.
- 4.9 During these conversations with drivers, we always hear the same explanations for their failure to comply with the door sign requirements.
 - i. **"The magnets aren't very strong and the door signs fell off / blew off in the wind / in the carwash."**
 - ii. **"They've been stolen"**
 - iii. **"I take the magnets off my car because they get stolen / because I was washing my car / because they came loose and I forgot to put them back on"**
- 4.10 It is clearly evident that whilst it is an offence to fail to comply with the conditions of a licence, it would be unrealistic, unfair to take severe enforcement, and susceptible to a successful appeal should the Authority revoke a licence for a single incident of failing to have door signs on display.

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- 4.11 Whether the above responses seen in 4.9 are genuine explanations or merely excuses is difficult for the Authority to decipher. What we can establish, however, is that they could all be solved by adding a requirement that door signage must be semi-permanent vinyl stickers as opposed to magnets. Semi-permanent vinyl stickers are highly unlikely to fall off or blow off in the wind, very difficult to steal, and their use eliminates the issue of drivers 'forgetting' to replace them for whatever reason.
- 4.12 Another issue that is raising its head on a regular basis is the unsuitability of some cars for magnets. The use of aluminium (being lighter) is becoming more prevalent with German car manufacturers. Unfortunately aluminium is not magnetic and therefore the use of magnets is not possible.
- 4.13 With these advancements and changes in material we must adapt our requirements to ensure its actually possible for the drivers to comply with their licences. If we allow some drivers to be excused from displaying the door signs simply because their cars are aluminium, then we risk creating a divide and further complications for the department.
- 4.14 The use of semi-permanent vinyl signage is not uncommon in Authorities around the UK, and a selection of other Authorities requirements pertaining to material type is included as Appendix 3.
- 4.15 Production of vinyl stickers is not an arduous task and the Operators can get them printed in bulk at any number of companies that provide these stickers. Prices of vinyl stickers are almost identical – if not cheaper – than the magnets.
- 4.16 As an example – Vistaprint – a popular and quick printing company – produce both the Magnet style signage as well as Vinyl Car Stickers, which enables us to compare prices.
- 4.17 For £14.18 a Vistaprint customer can get a 30cm x 30cm vinyl sticker door sign of their own design, that adheres to curved or flat surfaces, provides a safe, long-lasting hold, is safe for car or van paint and is weather resistant and waterproof. A magnet based door sign of a comparable size (29cm x 40cm) can be purchased for the same price of £14.18. Whilst a slightly different size, its anticipated that a change from magnets to vinyl should not cause any excessive financial burdens on the Operators.
- 4.18 Many of these vinyl car decal websites ensure to state (as Vistaprint does) that the signs are made of a transparent polyacrylate – a removable, pressure-sensitive adhesive that won't do anything to your car paint, and that they do not need to be removed for the carwash as the adhesive keeps a strong hold, and the laminate will protect them from damage.
- 4.19 Aside from the requirement for door signs, Woking Council Guidance states that signs must be no more than 800mm x 500mm to prevent the door signage becoming more like a whole vehicle wrap than a door sign, however it does not specify minimum size requirements. Companies have been seen recently using door signs that are small than an A5 sheet in size (i.e. 148 x 210 mm). We therefore propose that the door signage should be no larger than 800mm x 500mm (as per before) but no smaller than 210mm x 297 mm (an A4 sheet) to ensure that the signage is easily visible to the public and to Licensing Officers.
- 4.20 It is proposed that Operators and drivers be given a period of time in which to comply with this condition, and take the time to replace all their relevant door signage. The Licensing Department suggests that somewhere just over one year would be suitable, meaning compliance would be required by the 1st of April 2020.
- 4.21 It is therefore proposed that the following be added to the Conditions on Operators and Vehicle Licences:

- i) **All Operators Door Signs must be of a semi-permanent vinyl sticker type. Magnet or magnet based door signs are not permissible.**
- ii) **Operator Door Signs must be no smaller than 210mm x 297mm.**
- iii) **Companies that provide temporary or short-term cars (i.e. private hire vehicles to be rented out to drivers on a short term basis as a replacement for their vehicles) will not necessarily be required to have the vinyl door stickers on their vehicles. It will be at the discretion of the Licensing Authority to permit the use of magnet based door signs as a special exception on short-term licenced vehicles. Drivers should request this in writing prior to any request being considered.**
- iv) **Drivers found to be failing to comply with any of the conditions (for example, the Operators door signage) will be expected to present the vehicle for inspection by the Licensing Authority (at a time and place of the Authorities choosing, but no later than 72 hours from the time of request, unless there are exceptional circumstances). Vehicles failing to comply with the conditions of their licence will be deemed to be not fit for purpose under S.68¹ of the Local Government (Miscellaneous Provisions) Act 1976. Drivers who refuse to attend or fail to attend an inspection as requested will be deemed to have committed an offence under S.73² of the Local Government (Miscellaneous Provisions) Act 1976.**

5.0 Implications

Financial

5.1 None.

Human Resource/Training and Development

5.2 None.

Community Safety

5.3 None.

¹ S.68 **Fitness of hackney carriages and private hire vehicles.**

Any authorised officer of the council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council, or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney carriage or private hire vehicle or as to the accuracy of its taximeter he may by notice in writing require the proprietor of the hackney carriage or private hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied: Provided that, if the authorised officer or constable is not so satisfied before the expiration of a period of two months, the said licence shall, by virtue of this section, be deemed to have been revoked and subsections (2) and (3) of section 60 of this Act shall apply with any necessary modifications.

² S.73 **Obstruction of authorised officers.**

(1) Any person who—(a) wilfully obstructs an authorised officer or constable acting in pursuance of this Part of this Act or the Act of 1847; or (b) without reasonable excuse fails to comply with any requirement properly made to him by such officer or constable under this Part of this Act; or (c) without reasonable cause fails to give such an officer or constable so acting any other assistance or information which he may reasonably require of such person for the purpose of the performance of his functions under this Part of this Act or the Act of 1847; shall be guilty of an offence.

(2) If any person, in giving any such information as is mentioned in the preceding subsection, makes any statement which he knows to be false, he shall be guilty of an offence.

Risk Management

5.4 None.

Sustainability

5.5 None.

Equalities

5.6 None.

Safeguarding

5.7 None.

6.0 Conclusions

6.1 It is proposed that the above mentioned changes are subject to consultation with the trade and the results of the consultation reported back to the next Licensing Committee.

REPORT ENDS