

Our ref: HS/EK/Taxi

By Email only

Mr Bill Edwards  
Licensing Department  
Northampton Borough Council

23<sup>rd</sup> November 2012

Dear Mr Edwards,

**Taxi Consultation**

Thank you for your email dated 21<sup>st</sup> November 2012.

I would be grateful if you should kindly ensure that this letter is appended to the Committee report.

A. Scope

The scope of the working party, resolved at the meeting on 8<sup>th</sup> May 2012 was:-

*“To consult on potential changes to the conditions policy ...”*

The designated purpose was not to simply make the conditions policy more strict. In fact, we were reassured at the outset of the consultation process that nothing was pre-determined and if certain existing requirements were outdated or unjustified, they would be relaxed or removed.

B. Existing National Guidelines

*Department for Transport - Taxi & Private Hire Licensing: Best Practice Guidance (March 2010) – (DoTR)*

These guidelines were first published in October 2006 and then revised in March 2010.

The following advice is given:-

- 1) *“Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation and otherwise restricting entry to the trade. **Local licensing authorities should recognise that too restrictive an approach can work against the public interest – and can, indeed, have safety implications**” (Section 8).*

- 2) “Local licensing authorities will, therefore, want to be sure that each of their licensing requirements is in proportion to the risk it aims to address or, to put it another way, **whether the cost of the requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public**, for example through increased safety” (Section 10).
- 3) “An **annual test** for licensed vehicles of whatever age seems appropriate in most cases, **unless local conditions** suggest that more frequent tests are necessary” (Section 32).
- 4) “Similarly, **for mechanical matters, it seems appropriate to apply the same criteria as those for the MOT test to taxis and PHVs** .... However, taxis and PHVs provide a service to the public, so it is also appropriate to set criteria for the **internal condition of the vehicle, although these should not be unreasonably onerous**” (Section 32).

Public Authority Transport Network: Technical Officer Group Report (TOGR)

This report contains best practice national standards, specifically for the inspection of Hackney Carriage (HC) and Private Hire Vehicles (PHV).

The report is endorsed by VOSA and the Freight Transport Association. Other parties consulted as part of its development were The Department of Transport, The Disabled Persons Transport Advisory Committee and The Institute of Licensing.

The report contains the following crucial sections:-

- 1) “Vehicle operators, ***local licensing authorities*** and vehicle inspectors are strongly advised to refer to the Department of Transport guide [DoTR referred to above] ***in conjunction with this best practice guide***”. (Section 1.1)
- 2) “Local licensing authorities will want to ensure that each of their various licensing requirements is **properly justified by the risk it aims to address**” (Section 1.3).
- 3) “This best practice guide provides additional testing requirements to those of the MOT inspection manual ..... this best practice guide has been developed to provide all local licensing authorities with **a benchmark with regard to vehicle inspections and safety**” (Section 1.4).

C. Departure from National Guidelines

If a local authority is to depart from the recommended national guidelines in the two reports identified above, it must establish two things:-

1. That any additional requirement is proportionate to the risk it aims to address. An analysis is recommended on the effect of the requirement on the availability of transport to the public versus the benefit to the public of the requirement (e.g. through safety) **and**;
2. Special local conditions, geographical or otherwise.

In the present case, no cost/benefit assessment has been made. The costs, financial or crucially in terms of the effect on availability of transport, has not been considered at all.

Additionally, no special local conditions have been identified which justify departure from the national guidelines. In my submission, there are in any event no such local conditions such as remoteness, rugged terrain, harsh or extreme weather conditions etc.

Instead of analysing cost/effect on availability versus public benefit, the licensing department instead seeks incorrectly to justify the new condition policy on the basis of mileage figures and MOT failure rate.

#### *Mileage Figures*

Reliance on mileage figures to justify an even stricter condition policy is fundamentally flawed for the following reasons:-

- 1) No evidence has been provided establishing a link between vehicle mileage and dangers to public safety e.g. through accidents, injuries, breakdowns, complaints etc.
- 2) There is no measure or evidence to establish what is considered to be *high* mileage. For example, no analysis of local figures against national figures has been undertaken. This is despite the licensing officer being specifically requested by the Chair at the final consultation meeting on 14<sup>th</sup> November 2012 to analyse 1200 Northampton MOTs in order to determine the mileage figures and also to look at national figures; this has not been done.
- 3) The licensing department relies upon an incredibly small sample, using annual mileage figures from just 97 vehicles taken over a year ago during the course of just 12 weeks. This is despite the fact that data in relation to 389 vehicles is readily available and 1200 MOTs should have been analysed.
- 4) At least half of the 97 vehicle sample was selected randomly and cannot therefore show a true average even from within this very small sample group.
- 5) A further 6 mileage figures provided have been extrapolated from the basis of six monthly mileage figures; again this is clearly unsatisfactory.

- 6) The new condition policy was originally justified on the mistaken assumption that HCs and PHVs covered up to 80,000 miles per annum. Despite the fact that the licensing department's own figures now show that mileage of around 50,000 miles, one would have expected a reduction in the strictness of the proposals but this has not happened.
- 7) Mr Willsher, one of the driver representatives and a former operator has independently analysed around 200 MOTs which reveal average mileage of around 30,000 - 40,000 miles per annum. These MOTs were produced at the last consultation meeting.

### *MOT Failure Rate*

Reliance on MOT failure rates to justify an even stricter condition policy is fundamentally flawed for the following reasons.

1. There is no evidence linking these failures to accidents, injuries, breakdowns or complaints.
2. The MOT statistics used are based on a very small sample of MOTs taken from a period of just 12 weeks.
3. The MOT failure report itself states *“it should also be stressed that this ..... cannot be utilised as an accurate assessment of the state or condition of all hackney or private hire vehicles in Northampton. It could be that if we did this exercise again in six months time a different picture could be shown.”*
4. The analysis does not provide a breakdown on the routine defects identified during these MOTs. As a result, failure could have been due to a minor cosmetic issue.

### D. The Condition Policy - Specifics

#### Tyres

The legal limit for tyre tread is 1.6 millimetres.

The TOGR recommends the MOT standard of 1.6 millimetres for HCs & PHVs.

At the final consultation meeting, all drivers representatives agreed that the statutory and TOGR standard should be used (the minutes of the meeting have not recorded this correctly).

Despite the above, it is proposed to use a limit of 2.0 millimetres.

In order to justify departure from the national guidelines, the licensing department need to satisfy the requirements set out at C1 & 2 above of this letter. This has not been done.

### Brake pad lining

The legal limit is 1.5 millimetres.

The TOGR recommends the same MOT standard for HCs and PHVs.

At the last consultation meeting, the Chair confirmed that Council would be willing to implement a 1.5 millimetre limit, stating that if a problem arose, this could be revisited in 12 months time.

Despite the above, a limit of 2.0 millimetres remains in the final version of the policy.

In order to justify departure from the national guidelines, the licensing department need to satisfy the requirements set out at C1 & 2 above of this letter. This has not been done.

### Wheel rims

In response to my letter dated 2<sup>nd</sup> November 2012, it was agreed at the last consultation meeting that the words “*and specifications fitted at manufacture*” would be removed. This has not been done.

### Spare wheel

In response to my letter dated 2<sup>nd</sup> November 2012, it was agreed the final consultation meeting that approved tyre well spray cans would be acceptable. However, the relevant section has not been amended in the final version of the policy.

### Exterior condition

In response to my letter dated 2<sup>nd</sup> November 2012 and following discussion at the final consultation meeting, it was agreed that:-

1. Sections 2(a)-(c) would be retained.
2. Sections 2(d)-(k) would be removed in their entirety and substituted with the following words “*any damage which detracts from the overall appearance of the vehicle*” or words substantially to that effect.

The words appearing in the final version of the policy are not those agreed during the consultation. The information note is also entirely new and was not discussed or consulted upon. Further, the new requirement that all vehicles are expected to be “*presented as close as possible to that as it was at the manufacturer allowing for its age*” is unduly onerous.

In order to justify departure from the national guidelines, the licensing department need to satisfy the requirements set out at C1 and 2 above of this letter. This has not been done.

Conclusion

All of the necessary research, analysis, consultation and thinking has already been done and is contained within the two national reports (DoTR and TOGR).

The combined effect of the two national reports is the setting of standards above and beyond the VOSA MOT test *but* on the basis on annual testing (not 6 monthly).

Northampton HCs and PHVs are currently subject to more frequent tests than is nationally recommended i.e. 2 tests rather than 1 per year.

However, in addition, it is now proposed to make the inspection test even stricter than the already strict standard recommended by the two national reports. This is precisely what the Department of Transport warned against in section 8 of its report (above).

I would ask that these matters be carefully considered before a final decision is made.

Yours sincerely,

Mr Hassan Shah  
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