

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Licensing and Regulatory Committee held at on Tuesday, 26th September, 2017 at 10.00 am

PRESENT: County Councillor B. Strong (Chairman)
County Councillor J. Higginson (Vice Chairman)

County Councillors: A. Easson, M.Lane, J.Pratt, R.Roden,
J.Treharne, R. Edwards, D. Evans and L. Guppy

OFFICERS IN ATTENDANCE:

Sam Winn	Licensing Officer
Leigh Beach	Licensing Officer
David Jones	Head of Public Protection
Ioan Gealy	Solicitor
Paula Harris	Democratic Services Officer

1. Apologies for absence

County Councillor A. Webb and F. Taylor

2. Declarations of interest

None received.

3. To confirm and sign the minutes of the previous meetings

The following minutes of the Committee were confirmed and signed by the Chairman;

- Licensing and Regulatory Committee 23rd May 2017
- Licensing and Regulatory Sub Committee 23rd May 2017

In regard to events as referred to in the Public Protection report presented at the Licensing and Regulatory Committee 23rd May 2017 the Head of Public Protection advised that prior to each large public event held in Monmouthshire such as concerts and food festivals his team liaises with the organisers and partners to ensure all safety measure are met. They also have debriefing sessions with organisers and partners.

4. Hackney Carriage and Private Hire Vehicle Conditions

PURPOSE

To consider the current licensing requirements for vehicles with 5 - 8 seats.

RECOMMENDATION

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Members are requested to decide on one of the following options –

1. To retain the existing 5-8 Passenger vehicle passenger check currently adopted by Monmouthshire County Council.
2. To retain the existing 5-8 Passenger vehicle passenger check currently adopted by Monmouthshire County Council and also include the requirement - Any entrance / exit gap between the seat and door pillar must accommodate an adult passenger and allow them to pass freely, therefore any gap must exceed 350mm in width.
3. Members remove item 1 – No seats shall be moved to allow any passenger to enter or egress the vehicle and remove from item 7 the line – There must be a clear passageway to each row of seats from the existing 5-8 Passenger vehicle check.
4. Members remove the requirement for further checks of 5-8 Passenger vehicles entirely from the current conditions.
5. If the existing policy is altered, then the revised policy goes out on consultation to the taxi trade for comment and input.

KEY ISSUES

In the interest of passenger safety a report was submitted to the Licensing and Regulatory Committee in July 2002, recommending that Members approve conditions relating to the carrying of 7-8 passengers. The condition required all licensed hackney carriage and private hire vehicles to provide direct access and egress to a door for all passengers. This condition was approved and then updated on the 15th March 2010 to include vehicles carrying more than 4 passengers.

A further report was then submitted to the Licensing and Regulatory Committee on the 17th June 2014 following a request from the trade to reconsider its current policy, specifically to remove the condition that requires access and egress without the need to move another seat for 5-8 passengers. At this hearing Members rejected the request of the trade and in the interest of public safety retained this condition. This was further upheld and continued to remain in force when the taxi and private hire policy was revised on 1st April 2016 and 13th September 2016, following consultation with the trade. The 5-8 Passenger vehicle check criteria within the current taxi and private hire policy of Monmouthshire County Council.

In July 2017 a request was received from a taxi proprietor asking the Authority to reconsider its current policy, specifically to remove the condition that requires access and egress without the need to move another seat. The driver specifically refers to his vehicle being classed as a minibus and not a Multi-Purpose Vehicle, (MPV).

The request made to review the policy is made in relation to the vehicle purchased by the proprietor of a Ford Tourneo Custom. The proprietor has supplied the EuroNCap

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report, which is the safety test required for every vehicle before a vehicle is able to be sold to the public, for consideration.

It is recognised that the safety of the vehicle is not put into question, a person will purchase a vehicle for personal use for their individual needs. The policy was put in place by Monmouthshire County Council to cater for varying aspects of usage by persons of different ability, age and accidents. The choice of vehicle and criteria on behalf of the public is decided by Monmouthshire Council when a plate is issued. Section 47 and 48 of the Local Government (Miscellaneous Provisions) Act 1976 permits an authority to attach a condition they consider reasonably necessary for hackney carriages, which can include the conditions permitted for private hire vehicles, whereby type, size, design, safety and its comfort can be a factor before a vehicle is issued with a licence.

Following this request, on 8th August 2017 consultation was conducted with the Welsh Licensing Expert Panel for all Welsh Authorities to consider the criteria for 5-8 vehicle checks. Four Authorities replied, namely Caerphilly, Ceredigion, Merthyr and Powys who stated they do not have special criteria of testing of 5-8 vehicles. However, Ceredigion do have conditions for accessibility of a vehicle if seats are adapted for wheelchair use.

Previous enquiries with neighbouring Authorities is summarised in Appendix four, with Torfaen and Blaenau Gwent currently requiring access and egress without the need to move another seat.

Similarly, in 2014 Powys County Council submitted a report to their Licensing Committee with regards to their policy on passenger safety (report attached as appendix five). The report referred to an appeal by a Hackney Carriage Proprietor in November 2003 to the Magistrates Court against the decision of the Council not to licence the full seating capacity of his MPV. The magistrates upheld the decision of the Council. Powys referred to a survey within this report which revealed that the Authorities retaining a policy on requiring direct access to all seats without the need to lower the back of a seat are now in the minority. Powys Council at that time decided to remove this condition.

As requested by the proprietor we have viewed the conditions attached to vehicles licensed by English Authorities to get a more national approach. Herefordshire County Council have the following condition attached

Unobstructed access to all emergency doors or exits. (Seats must be located to facilitate this).

The following is also in addition to all other conditions and applies to mini buses and MPVs that are licensed as private hire vehicles and taxis:

The vehicle must have at least two doors to the rear of the driver for the exclusive unobstructed use of passengers. Wakefield Council insists on a minimum of two means of exit from the passenger compartment behind the driver. The exits must be free of any obstructions and reachable from all parts of the rear passenger compartment. Any entrance / exit gap between the seat and door pillar must accommodate an adult

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passenger and allow them to pass freely therefore any gap must exceed 350mm in width.

The Royal Society for the Prevention of Accidents (ROSPA) issued Minibus Safety, A Code of Practice in August 2015. With regards to accessibility it states on page 45 of the document

It is vital that passengers can easily board and leave the vehicle during normal use, and in an emergency. Every passenger must have easy access to the doors, which should be kept unlocked. Gangways must be kept clear of luggage at all times.

Good accessibility also means that passengers should be able to enter and exit the vehicle comfortably.

On 15th September 2017, a site visit to Raglan Depot was arranged for Members of the Licensing and Regulatory Committee to view several vehicles licensed by Monmouthshire with seating capacity between 5-8 passengers. Of those vehicles were ones which could be licensed for the full asking capacity of 8 seats and some which would be granted a lesser capacity due to seats not having enough egress capacity. Following this site meeting the proprietor requesting the change in conditions for seating capacity submitted further information and to assist photographs of the vehicles are also submitted.

It was noted by Members at the site meeting that the acceptable gap for egress from a vehicle without the need of a seat being folded was at the discretion of the Officer inspecting that vehicle, and this may also need to be taken into consideration of whether to adopt a minimum width of 350mm, as adopted by Wakefield in 3.8 above, should the decision be taken to retain the 5-8 passengers testing criteria.

Monmouthshire currently licence 108 vehicles, (45 Hackney Carriage, 63 Private Hire) that are licenced to carry between 5 and 8 passengers. Out of the 108 vehicles 27 were refused the passenger capacity they requested as it failed to meet the standards of the 5-8 passenger testing criteria conditions currently adopted by Monmouthshire Council.

MEMBERS COMMENTS

The Councillors which attended the Raglan depot were invited to speak first, during discussion the following points were raised;

- Concerns were raised regarding vehicle access and it was felt there was insufficient room to exit the vehicle easily, especially in the event of an accident.
- On the day of the demonstration at the Raglan Depot the owner of the vehicle who has experience of lifting the seat had difficulty moving the seat, which suggested to Members that an inexperienced person would find it incredibly difficult to do this.

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- A Member commented that in the event of an accident it is impossible to predict where on the vehicle the impact would take place, highlighting the essential necessity to have easy access/egress from all seats in the vehicle.
- The Officers were thanked by a Member for their work on this issue and for arranging the demonstration of the vehicles to allow Members to witness in person the access/egress from the vehicle.
- A Member spoke of their number one priority being public safety and as such could not support changing the Council's policy.
- A Member who has experience of driving buses commented that it was essential that nothing obstructed the emergency exit and that safe exit is vital.
- It was asked if the policy was changed to license this vehicle, would the Council be liable in the event of an accident and was answered by Officers that the liability would be with the vehicle owner.

Subsequent to the Member's comments Mr Watkins, the owner of the vehicle the Members witnessed at Raglan depot was invited to speak.

Mr Watkins raised the following points;

- The vehicle is not one he would buy for his family, he specifically bought it as a taxi vehicle.
- The vehicle is lower on emissions than older vehicle which have a private hire license.
- This vehicle has a step which allows easy access/egress.
- It is unfair to run through hypothetical crash scenarios, as have other MCC vehicles been crash tested?
- If he had been aware of MCC's policy he would not have purchased the vehicle.

In response to Mr Watkins, the Head of Public Protection replied with the following comment;

- In terms of taxi policy, Appendix One was sent to Mr Watkins at his request which clearly states MCC's position on vehicles of this size.

It was proposed by County Councillor j. Higginson and seconded by County Councillor D. Evans to retain the existing 5-8 Passenger vehicle passenger check currently adopted by Monmouthshire County Council.

Upon being put to the vote this was unanimous.

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Mr Watkins was informed that he 21 days to appeal this decision at a Magistrates Court.

5. Wheelchair Accessible Vehicles

PURPOSE:

To agree to the Local Authority maintaining a list of “designated vehicles”, that is a list of wheelchair accessible Hackney Carriage and Private Hire Vehicles in accordance with Section 167 of the Equalities Act 2010.

RECOMMENDATION(S):

It is recommended that:-

Members approve a list of designated wheelchair accessible Hackney Carriage and Private Hire Vehicles.

3. KEY ISSUES

The Equalities Act 2010, on 6th April 2017 introduced changes to encompass wheelchair accessible vehicles within the taxi trade. The changes in the Act gives licensing authorities the power to maintain a list of wheelchair accessible Hackney Carriages (Taxis) and Private Hire Vehicles (PHVs). This means that licensing authorities can choose whether they wish to maintain a list of designated vehicles. However, it is strongly recommended by the Secretary of State that all licensing authorities to do so, as the objective of this provision is improve the travelling experience for people who use wheelchairs. This list is solely for wheelchair accessible vehicles.

Prior to the change in legislation, the Licensing Section already held details of those vehicles that were wheelchair accessible. The current Taxi and Private Hire Policy and Conditions adopted by Monmouthshire County Council in 2016 also referred to disability awareness and the duties of drivers should a wheelchair user wish to use a Taxis or PHVs (See Appendix A). As such, it seemed logical to designate the list as measures were already currently in place.

The law did not state, the extent of the details that need to be placed on the list. To assist it's users and to ensure compliance, the 20 vehicles held on record as being wheelchair accessible were written to on 3rd May 2017. This letter explained that a list

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of designated wheelchair vehicles was to be placed on Monmouthshire County Council website, which if agreed by them, would include the following details;

- Licence Number
- Car Registration Number
- Vehicle
- Total Passenger Capacity
- Company
- Company Telephone Number

The letter further advised them that once they were placed on this designated list, the drivers of those vehicle must adhere to the following duties under Section 165 of the Equalities Act 2010:-

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;
- if the passenger chooses to sit in a passenger seat to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

All 20 of those vehicle owners, agreed to being placed on the designated wheelchair accessible list and the list was duly placed on the Council's website.

However, at the Welsh Licensing Expert Panel Meeting held on 28th June 2017, it was recommended that Licensing Committees should agree to a designated wheelchair accessible vehicle be adopted by their individual Authorities, even though this was not stipulated within the changes under the Equalities Act 2010.

The reasons given were that an Authority can designated a vehicle as wheelchair accessible upon its list without the consent of the owner. The vehicle owner can then appeal to the Magistrates of the Authorities decision to be placed on the list. It is felt that if Committees have adopted this list, they can then hold a hearing if a person does not want to be placed on a designated list prior to an appeal at the Magistrates Court.

Furthermore, it was noted at this meeting Section 166 of the Equalities Act 2010 allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. If no medical certificate is submitted from the Medical Practitioner stating reasons why the driver should be exempted from such duties the matter should be deferred to a hearing for a decision of exemption from such duties.

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As such, this report requests the Licensing and Regulatory Committee to formally adopt a designated vehicle list of wheelchair accessible Hackney Carriages and Private Hire Vehicles.

MEMBERS COMMENTS

During discussion the following points were raised;

- Members raised the need for disability awareness training to be given to all drivers.
- It was felt that all drivers who assist wheel chair users need to be physically healthy.
- Upon learning that disability awareness training was not mandatory, Members asked if this is something we could look to support in future.

Upon being put to the vote the Members unanimously voted to support Officer's recommendation to approve a list of designated wheelchair accessible Hackney Carriage and Private Hire Vehicles.

6. To note the date and time of the next meeting as 14th November 2017 10am

The meeting ended at 11.05 am