

Report of: Head of Legal and Democratic Services

To: General Purposes Licensing Committee

Date: 28th October 2008 **Item No:**

Title of Report: Vehicle Licensing Review – Eligibility of New Applicants.

Summary and Recommendations

Purpose of report: To clarify legal advice on the restriction of eligibility.

Key decision: No

Portfolio Holder: N/A

Report Approved by:

Sarah Fogden	Finance
Jeremy Thomas	Legal & Democratic Services

Policy Framework: None

Recommendation(s)

The Committee is RECOMMENDED to:-

- Note the Council resolutions of 30th June 2008.
- Note the legal advice concerning the possible restriction on eligibility for new hackney carriage vehicle licence
- Consider whether to impose a restriction that applicants who have previously held a hackney carriage vehicle licence but sold, surrendered or transferred it within the last 5 years shall not be eligible for the grant of a new licence.

Background

1. At its meeting on 30th June 2008 Council considered the recommendations of the former Environment Scrutiny Committee 14th January 2008 and the General Purposes Licensing Committee 16th January 2008 in relation to rickshaw and taxi licensing. **(Appendix 1)**
2. In relation to possible refusal of new hackney carriage vehicle licences to persons who have previously held a licence but sold or transferred it, Council agreed 'in principle' to such a restriction subject to a further report on the legality and risk of challenge **(Appendix 2)**.

Refusal of new licence to persons having previously sold, surrendered or transferred a licence.

3. Within the context that there may only be a limit on the number of hackney carriages when there is no unmet demand, the Council has a discretion in the granting of hackney carriage vehicle licences and may request of the applicant any information its considers reasonably necessary to decide an application. The discretion to grant or refuse a licence must be applied fairly, reasonably and proportionately.
4. The Council currently maintains a limit on the number of hackney carriage vehicle licences. However, on the most recent occasions when the Council has granted new hackney carriage vehicle licences (in response to the evidence of a demand survey) General Purposes Licensing Committee has on each occasion resolved to select applicants who meet certain criteria – the criteria applied have included, among others, *no convictions or cautions within previous 5 years, have been a hackney carriage driver for the previous 5 years.*
5. It would be possible to include in the application criteria a requirement that applicants not, within a certain period, have sold, surrendered or transferred a hackney carriage vehicle licence previously held by them. The reason for such a requirement would be to help reduce the trade in licences which the Environment Scrutiny review found to be contrary to the public interest.
6. Any restriction must be a reasonable and proportionate response to the problem identified. A time limited restriction for an appropriate period, perhaps 5 years, or any other period the Committee consider appropriate, might be a reasonable and proportionate measure to prevent an applicant obtaining a licence as a commodity in order to sell it soon after for financial gain. A blanket indefinite restriction would go beyond this and could prevent genuine applicants who may wish to return to the industry after a prolonged break. This would be disproportionate and unlawful.

7. The Committee should also bear in mind before imposing such a restriction that having previously and responsibly held a licence may otherwise be good evidence of the suitability of applicants and it would be counterproductive to impose a restriction which could result in the best applicant being ruled out.

Recommendation

8. That Committee consider whether to impose a restriction that applicants who have previously held a hackney carriage vehicle licence but sold, surrendered or transferred it within the last 5 years shall not be eligible for the grant of a new licence.

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Background papers: None