

Licensing and Regulatory Sub-Committee



Forest Heath
District Council

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| Title of Report: | Application for the Exemption from Restrictions on Advertising in Hackney Carriage and Private Hire Handbook | |
| Report No: | LSC/FH/17/001 | |
| Report to and date/s: | Licensing and Regulatory Sub-Committee | 22 May 2017 |
| Portfolio holder: | Councillor Lance Stanbury Portfolio Holder for Planning and Growth Tel: 07970 947704 Email: lance.stanbury@forest-heath.gov.uk | |
| Lead officer: | Graham Haygreen Licensing Enforcement Officer Tel: 01638 719369 Email: graham.haygreen@westsuffolk.gov.uk | |
| Purpose of report: | To determine an application for the exemption from the advertising restrictions within the Hackney Carriage and Private Hire Handbook | |
| Recommendation: | It is recommended that the Sub-Committee: (1) Approve the application for exemption; or (2) Approve the application for exemption but impose conditions; or (3) Reject the application. | |
| Key Decision: | <i>Is this a Key Decision and, if so, under which definition?</i> No, it is not a Key Decision - <input checked="" type="checkbox"/> | |
| Consultation: | See number 4 below | |

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| Alternative option(s): | | N/A – the Council is duty bound to determine the application | |
| Implications: | | | |
| Are there any financial implications? <i>If yes, please give details</i> | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Are there any staffing implications? <i>If yes, please give details</i> | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Are there any ICT implications? <i>If yes, please give details</i> | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Are there any legal and/or policy implications? <i>If yes, please give details</i> | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Are there any equality implications? <i>If yes, please give details</i> | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Risk/opportunity assessment: | | <i>(potential hazards or opportunities affecting corporate, service or project objectives)</i> | |
| Risk area | Inherent level of risk (before controls) | Controls | Residual risk (after controls) |
| Any decision reached by the Sub Committee is subject to appeal by the applicant | Low | The Sub-Committee, should have regard to the Hackney Carriage and Private Hire Handbook, but may depart from these where reasons are given. | Low |
| Ward(s) affected: | | All Wards | |
| Background papers: <i>(all background papers are to be published on the website and a link included)</i> | | Hackney Carriage and Private Hire Handbook http://www.westsuffolk.gov.uk/Business/Regulation and Licensing/Licensing/Taxi licensing/upload/FHDC-Taxi-Handbook-April-2017.pdf | |
| Documents attached: | | <i>(Please list any appendices.)</i> Appendix 1a and 1b – Email complaint Appendix 2 – Email from Team Leader Appendix 3 - Application for exemption Appendix 4 - Hackney Carriage and Private Hire Handbook – Advertisements – Signs - Notices Appendix 5 – Corporate Advertising Appendix 6a and 6b – Objections to application | |

1. Key issues

- 1.1 On 10 April 2017 officers received a complaint regarding a breach of the advertising displayed on the vehicle WP14 YFD **Appendix 1.**
- 1.2 The applicant initially contacted the Authority on 22 June 2016 and was informed of the required and authorised Advertising on Private Hire Vehicles. An email from the Licensing Team Leader confirming the conditions regarding advertising is attached **Appendix 2.**
- 1.3 The applicant continued to display the corporate Driving Miss Daisy advertising on the vehicle.
- 1.4 The applicant was visited by a Licensing officer and an application for exemption was subsequently received. The application is for exemption from the Private Hire Vehicle Licence Conditions, point 9 Advertisements, page 17. **See Appendix 3.**
- 1.5 A copy of the current Hackney Carriage and Private Hire Handbook is attached as **Appendix 4.** The conditions regarding advertisement has changed for private hire vehicles. Rear doors will be required to display A4 stickers stating that they are pre-booked only.
- 1.6 The application is made on the grounds that the service is predominantly for a particular market to assist those with particular health needs. i.e. elderly, dementia, autistic etc. The service provided is a companionship service, rather than purely a private hire vehicle. However, payment is taken and therefore a private hire licence is required.
- 1.8 The design of the advertising (**Appendix 5**) was made specific to assist dementia suffering clients with visual perception issues. The franchise felt that the design and colours enable sufferers to easily recognise the vehicle and to offer comfort and reassurance. The advertising is of a corporate nature and adopted elsewhere within Authorities in the UK and worldwide.
- 1.7 Due to the breach of the conditions set out in the Handbook Officers believed it prudent to take the exemption application to the Licensing Sub- committee for a decision.
- 1.8 There are currently no processes in place for drivers to apply for advertising exemptions, but can be considered on a case by case basis.

2. Legal and Policy Implications

- 2.1 The current handbook states:

The vehicle shall be free from any signs or notices except as may be required by any statutory provision or required under these conditions. With this proviso advertisements' are permitted on the exterior of the vehicle. Front doors may carry the contact details of the proprietor. Rear doors may carry commercial advertising. A single product/service may be advertised at any one time. The advert must be suitable for a vehicle in public service and considered by the Council to be in-offensive. The advert shall be no larger than 30cm x 60cm.

- 2.2 Any diversion from the Handbook could result in others drivers undermining the terms of advertising specified with the Drivers Handbook.
- 2.3 A recent revision to the Drivers Handbook has been made where it requires all private hire vehicles to display a sticker on their rear passenger door stating "Advance Bookings Only. Not Pre-Booked – Not Insured." This could require drivers to re-assess their current advertising.

3. Representations

- 3.1 Objections to the advertising have been received from Des Murphy (Hackney Licence holder and Private Licence Operator) and Darren Daines (Lily Executive Cars) **Appendix 6.**

4. Legal and policy implications

- 4.1 The Sub-Committee may take any of the steps set out below:
 - a) Approve the application for exemption; or
 - b) Approve the application for exemption but impose conditions; or
 - c) Reject the application.

The applicant has 21 days to appeal to the Magistrates court.