

**Local Government Miscellaneous Provisions Act 1976
Application to licence vehicle outside of policy**

Final Decision-Maker	Licensing Sub Committee
Lead Head of Service	John Littlemore
Lead Officer and Report Author	Lorraine Neale
Classification	Public
Wards affected	None

Executive Summary

Mr Omar has submitted an application to the licensing authority asking to licence as a hackney carriage a vehicle that does not meet the policy criteria for new vehicles. The vehicle was previously licensed as a hackney carriage with MBC but that licence was revoked on the 22nd June 2022 and this report explains the circumstances leading to that decision and the subsequent actions taken by the applicant in relation to that vehicle.

Purpose of Report

To consider an application for the grant a licence for a hackney carriage vehicle outside of policy guidelines

This report makes the following recommendations to this Committee:

1. To consider whether to grant a new hackney carriage vehicle licence for the vehicle currently identified with the licence plate GX09 HKG.

Timetable

Meeting	Date
Licensing Sub Committee	8 th September 2022

Local Government Miscellaneous Provisions Act 1976

Application to licence vehicle outside of policy

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Cross Cutting Objectives	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Risk Management	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Financial	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Staffing	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Legal	<ul style="list-style-type: none"> The powers for a Licensing Authority to license hackney carriages are contained within the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. An unsuccessful applicant can appeal the decision to refuse a hackney carriage vehicle licence under s.37 of the 1874 Act by way of complaint to the Crown Court. Section 47(1) of the 1976 Act confers a power to attach conditions to a hackney carriage vehicle licence granted under section 37 of the 1847 Act. Section 47(3) of the 1976 Act provides that any person aggrieved 	Helen Ward, Lawyer (Contentious) 30 August 2022

	by any conditions attached to such a licence may appeal to a Magistrates' Court.	
Privacy and Data Protection	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Equalities	<ul style="list-style-type: none"> There are no implications 	Nicola Toulson Equalities & Communication Officer
Public Health	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Crime and Disorder	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Procurement	<ul style="list-style-type: none"> There are no implications 	Lorraine Neale Senior Licensing Officer
Biodiversity and Climate Change	<ul style="list-style-type: none"> There are no implications on biodiversity and climate change. 	Lorraine Neale Senior Licensing Officer

2. INTRODUCTION AND BACKGROUND

- 2.1 The vehicle GX09 HKG was licensed as a Hackney Carriage vehicle from 20th January 2012 to 22nd June 2022 as plate H25.
- 2.2 The vehicle became 10 years old in 2019 and so subject to 6 monthly tests as stipulated at Page 19 of the Hackney Carriage and Private Hire Licensing Policy (Taxi Policy).
- 2.3 In December 2021 an application to renew the vehicle licence was received and licence 21/03448/TXVHC was granted (Appendix1) to expire 19th January 2023. The 6 month test for the vehicle took place on 22nd June 2022 and the vehicle failed the 6 month test on major issues, the compliance sheet (Appendix 2) and phone conversation with the garage on the same day indicated that the vehicle was mechanically unfit and not safe to carry passengers, the garage indicated that they had advised the driver that they should consider replacing the vehicle. The information provided to

the Licensing Department on the seriousness of the vehicle defects led to the decision to revoke the licence.

- 2.4 On 22nd June 2022 a revocation notice was issued and e-mailed to Mr Omar (Appendix 3). This notice contained the reasons for the revocation and the information on how the decision can be appealed. Mr Omar has claimed that he had never received that e-mail and it was sent to him again for information only on 4th August 2022 (Appendix 4), by which time the period for appealing the decision had passed.
- 2.5 Because Mr Omar claimed he was unaware of the notice that had been issued and that the vehicle licence had been revoked he lost the opportunity to appeal to the Magistrates Court and had in fact gone ahead and had repairs made to the vehicle at significant cost to himself.
- 2.6 The Licensing Department received a further compliance sheet from the administration team at Sevenoaks on 3rd August 2022 (Appendix 5) which showed that GX09 HKG - H25 had now passed the compliance test, the garage was contacted and they confirmed that the vehicle had been presented to them and they had been surprised that the costly repairs had been made to a vehicle that old and had not anticipated that the repairs would have been made. They confirmed that the standard of repair was excellent and they had been able to pass the vehicle, unfortunately it was at this stage that Licensing became aware that Mr Omar did not know that the vehicle was no longer licensed as he advised he had not received the revocation notice.
- 2.7 Mr Omar has submitted an application to licence GX09 HKG as a new hackney carriage vehicle which was received on 15th August 2022 (Appendix 6) but the vehicle no longer complies with the Taxi Policy in particular in respect of the matter below.

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"The vehicle should not have more than 30,000 miles on the clock or be older than 3 years at first licensing".

As granting a licence for this vehicle would now be contrary to the Taxi policy, the officer delegation would be to refuse the application and in accordance with the Council's Policy, Mr Omar has requested that the matter is considered by Licensing Sub Committee (Appendix 7). As the vehicle has now passed the required inspection (Appendix 5) the request is that he be allowed to licence the vehicle again and continue to renew that licence annually until the vehicle is 15 years old subject to it continuing to meet policy criteria.

3. AVAILABLE OPTIONS

- 3.1 The vehicle does not meet policy criteria on age and mileage however Mr Omar is requesting that Committee consider whether to grant a hackney carriage vehicle licence on this occasion as he feels that the vehicle has been repaired to a high standard and can be used once more as a licensed Hackney vehicle.

- 3.2 If this deviation from policy is allowed then it would be necessary to make it clear that it was outside of the Council policy and based on exceptional circumstances.
- 3.3 If Committee feel there are insufficient reasons to deviate from the policy, then the application should be refused.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 That Committee allow the vehicle to be licensed as H25 once again, if there had not been a break in the licensing of the vehicle then this vehicle could have continued to be licensed until January 2024, assuming the vehicle was successfully renewed in January 2023. Mr Omar has indicated that ongoing financial hardship has made it impossible to consider a new vehicle and as he has made all the necessary repairs to GX09 HKG at significant cost that a new licence be allowed for that vehicle.
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5. RISK

- 5.1 Assess if within the council's risk appetite and any mitigating actions proposed if needed.
- 5.2 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 N/A
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 N/A
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8. REPORT APPENDICES

[The following documents are to be published with this report and form part of the report:

- Appendix 1: Revoked licence

- Appendix 2: Garage inspection sheet 22.06.22 (failed) – To follow
 - Appendix 3: E-mail 22.06.22 – notice of revocation to Mr Omar
 - Appendix 4: E-mail 04.08.22 - notice of revocation resent to Mr Omar
 - Appendix 5: Garage inspection sheet 03.08.22 (passed) – To follow
 - Appendix 6: New hackney carriage vehicle application (Parts 6b, c, & d – To follow)
 - Appendix 7: Mr Omar request for Licensing Sub Committee to consider application.
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9. BACKGROUND PAPERS

[Hackney Carriage & Private Hire Licensing Policy](#)
[Local Government \(Miscellaneous Provisions\) Act 1976.](#)