

# Somerset West and Taunton Council

## Licensing Committee – 21 March 2022

### Proposed amendment to local taxi policies to allow for the licensing of motor tricycles as private hire vehicles.

This matter is the responsibility of Cllr Andrew Sully

Report Author: Brad Fear – Licensing Officer

#### 1 Purpose of the Report

- 1.1 Members are asked to consider a proposed amendment/addition to the existing local taxi policies, to allow for motor tricycles to be licensed as private hire vehicles.
- 1.2 This report aims to set out proposals for appropriate conditions upon the grant of a Private Hire vehicle licence, to assist Members in reaching an informed decision.

#### 2 Recommendations

- 2.1 Members consider the observations of officers and the appropriateness of proposed additions to policy, as well as proposed conditions, measured against the legal requirements of Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 and determine if the proposed amendments should be applied, thereby allowing motor tricycles to be licensed as private hire vehicles in our area.
- 2.2 Members consider and approve the addition of the proposed wording attached as **Appendix 5** to existing local taxi policies, both for the former West Somerset area and the former Taunton Deane area.

#### 3 Risk Assessment

- 3.1 The contents of this report do not relate to any of the risks identified in the Corporate Risk Register.

#### 4 Background and Full details of the Report

- 4.1 The licensing team of Somerset West and Taunton Council are responsible for issuing licences for vehicles in the local area being utilised as either hackney carriages (taxis) or private hire vehicles, in accordance with Part II of the Local Government (Miscellaneous Provisions) Act 1976.
- 4.2 The Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as being 'a motor vehicle constructed or adapted to seat fewer than nine passengers, other than a hackney carriage or public service vehicle or a London cab or tramcar, which is provided for hire with the services of a driver for the purpose of carrying passengers'.

- 4.3 Local policies/regulations were created and implemented by both the former Taunton Deane Borough Council and West Somerset Council, imposing additional requirements, pre-requisites and conditions upon the licensing of vehicles as either hackney carriages or private hire vehicles. Following the creation of Somerset West and Taunton Council, these two separate policies for the former Taunton Deane and West Somerset areas remain in force. As such, vehicles in the district remain licensed to one of these two areas (i.e. either licensed to operate from the former Taunton Deane area or from the former West Somerset area).
- 4.4 The above-mentioned local policies stipulate a number of general vehicle specifications which are expected to be met by any vehicle being proposed to operate as a licensed vehicle. In the case of the former West Somerset area, this falls under Appendix C of the local policy/regulations (which I have attached to this report as **Appendix 1**). Likewise, in the case of the former Taunton Deane area, general vehicle specifications for private hire vehicles can be found under the fourth appendix of that area's local policy/regulations (this has also been added to this report under **Appendix 2**).
- 4.5 An application has been received relating to the licensing of a three-seater motor tricycle as a private hire vehicle; intended to take up to two passengers at a time on sight-seeing tours of Exmoor. Tours will include visiting small manufacturers of hand-crafted products, scenic beauty spots and areas of historic importance and history (an example leaflet of the proposed activities can be found as **Appendix 3**). The vehicle in question is a Rewaco (2018 model) purpose built three-seater motor tricycle, with similar controls to that of a car (clutch, brake, accelerator, gear change), but the steering is by handlebars. The vehicle is classified as a motor car and can be driven by anyone with a Full UK driving licence, providing they passed their driving test prior to 19 January 2013, following which the DSA issued new driving rules for mopeds, motorcycles and tricycles.
- 4.6 A motor tricycle does not conform to all of Somerset West and Taunton Council's conditions for licensing Private Hire vehicles (as per both the West Somerset area and Taunton Deane area hackney carriage and private hire policies, the relevant sections of which is attached to this report under **Appendix 1** and **Appendix 2**).
- 4.7 These existing approved standard conditions for a private hire vehicle were intended for the use of standard road vehicles (i.e. cars) and the vehicle in question is so different that special safety conditions would have to be considered. Unless amendments are made to the policy for the proposed vehicle—which would include new conditions to be directly applied to this sort of vehicle—a motor tricycle would be precluded from licensing approval.
- 4.8 Consideration should be given to imposing appropriate safety conditions which are proportionate to accommodating motor tricycles within a licensed, but controlled framework.
- 4.9 To help in identifying and supplying the most relevant information to enable a considered decision, the 'main issues' section deals with those thoughts and issues that might be at the forefront of Members minds in ensuring that safety is identified as the key issue. A range of general interest questions have also been asked of the operator of the business outlined above, and these are dealt with as supplementary information questions under **Appendix 4**.

## 5 Main Issues to consider

5.1 Regarding the licensing of Private Hire vehicles, section 48 of the Local Government (Miscellaneous Provisions) Act 1976 states:

*“A district council shall not grant such a licence unless they are satisfied-*  
*(a) that the vehicle is –*

- (i) suitable in type, size and design for use as a private hire vehicle;*

**Officer observations:** Motor tricycles are a well-known and popular alternative mode of transport worldwide. They are produced and manufactured to recognised European standards.

The vehicle is designed to carry more than one passenger in addition to the driver, with appropriate features to accommodate the needs of two rear seat passengers, including safety belts.

- (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;*

**Officer observations:** Given the type of vehicle proposed, we would consider such confusion to be unlikely in this instance.

- (iii) in a suitable mechanical condition;*

**Officer observations:** Motor tricycles, as with other road motor vehicles, are registered in the UK, in compliance with Road Vehicles Construction and Use Regulations for this type of vehicle.

As with a car, the vehicle is required to pass an MOT at an approved MOT testing station to account for the roadworthiness of the vehicle.

Private hire vehicle licences last for a period of one year and an MOT must be passed each time upon renewal of the licence under the current policy requirements. As such, we would likewise expect evidence of a passed MOT to be provided annually by any applicant seeking to licence a motor tricycle as a private hire vehicle—a pre-requisite which has been added to the proposed policy wording attached as **Appendix 5**.

- (iv) safe;*

**Officer observations:** The driver and passengers are exposed to external elements which you would normally associate with this mode of transport. Protections that you would usually associate with saloon vehicles (e.g. air bags, side impact bars, crumple zones, etc) are not in place on a motor tricycle. However, motor tricycles are able to support additional safety features such as seatbelts and passenger head restraints and often come with these fitted as standard. We would consider these safety features essential for any vehicle looking to be licensed as a private hire vehicle. With this in mind, we propose the addition of pre-requisites to any policy wording, expressly requiring that passenger head restraints and seatbelts are fitted to any motor tricycle before it will be considered for a private hire vehicle licence. These pre-requisites have been added to the recommended policy wording under **Appendix 5**.

Under the existing standard conditions for a private hire vehicle (under Appendix 4 of the former Taunton Deane Borough Council area taxi policy or ‘Taxi Handbook’), licence holders are required to *‘ensure that there are*

*no apparent defects to the vehicle and that the vehicle is fit to be used for gain.'* As such, we would expect the motor tricycle to be routinely maintained and checked to ensure it remains safe to transport passengers.

It has been observed that neither drivers nor passengers of this type of vehicle are legally required to wear a crash helmet. However, the Licensing team would consider this as a necessary and proportionate requirement in the case of a private hire business, to ensure the safeguarding of passengers. We would therefore propose the addition of a standard condition to any licensed motor tricycle private hire vehicle licence, expressly requiring that *'The vehicle operator must ensure that all passengers are wearing suitable protective clothing at all times'*.

Should a passenger not be able to reach the restraint bar when seated, or if their feet do not touch the vehicle foot bar, then their safety may be at risk. Manufacturer guidance for popular motor tricycle models such as Rewaco advise that anyone below the height of 165cms would not be allowed to travel on the vehicle. We would therefore also propose the addition of a condition to any motor tricycle private hire vehicle licence, requiring a minimum passenger height of no less than 165cm.

A firm understanding of safety instructions and personal responsibility are key for safely riding the proposed type of vehicle and whilst there are no strict definitions of an appropriate passenger age, we would consider it proportionate, with regard to safety, to place a condition on any motor tricycle private hire licence outlining a minimum acceptable age for any passenger. The operator of the Exmoor Trike Tours business (as outlined above, under section 4) has proposed a minimum age of 14 years for any passenger travelling on a motor tricycle. The Licensing team would also consider this a safety issue important enough to warrant the addition of a standard condition to any motor tricycle private hire vehicle requiring this minimum age. The condition proposed currently outlines a minimum age of 14 years, however Members may wish to consider an alternative minimum age.

The conditions proposed above have all been added to the proposed policy wording under **Appendix 5**.

(v) *comfortable;*

**Officer observations:** The type of vehicle in question is not classed as a 'motorcycle' and therefore passengers would not be required to take into account the usual level of interaction and understanding associated with motorcycles in order to comfortably/safely ride. For example, passengers wouldn't be required to consider the impact their position on the vehicle would have on road handling and cornering, leaving control of the vehicle more fully in the hands of the driver.

The vehicle comes equipped with appropriate passenger seating with back and head restraint and safety belts, ensuring both passenger safety and a level of comfort which Members might consider as being proportionate to the applicant's proposed usage/business plan (as shown under **Appendix 3**).

*(b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988,*

**Officer observations:** Existing private hire vehicle applications (both for the granting of a new vehicle licence and each time upon renewal) are required to be submitted with evidence of relevant insurance and we would expect the same to be in place for a motor tricycle. This has therefore also been added to the Appendix 5 policy wording, as a required application pre-condition.

*and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the council.*

**Officer observations:** Every application will be considered on its own merits.

*(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary...*

**Officer observations:** Some safety considerations have been addressed in the preceding paragraphs and proposals made in relation to the wording of pre-requisites and conditions in relation to the licensing of motor tricycles as private hire vehicles. Members may wish to consider if, in the interest of public safety, it is reasonable and proportionate to amend the wording of these proposed conditions, or to propose additional conditions considered reasonably necessary.

## **6 Links to Corporate Strategy**

- 6.1 The Council has a statutory duty to determine applications for private hire vehicle licences and to make all reasonable considerations regarding public safety in doing so.

## **7 Finance / Resource Implications**

- 7.1 There are no financial implications.

## **8 Legal Implications**

- 8.1 No legal implications have been identified.

## **9 Climate and Sustainability Implications**

- 9.1 There are no climate and sustainability implications.

## **10 Safeguarding and/or Community Safety Implications**

- 10.1 There are no safeguarding or community safety implications.

## **11 Equality and Diversity Implications**

- 11.1 There are several protected characteristics identified in the Equality Act 2010, which are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public

Sector Equality Duty as part of the decision-making process. The three aims the authority must have due regard for are:

- The eliminate of discrimination, harassment, victimisation.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share them.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share them.

11.2 No equality and diversity implications were identified.

## **12 Social Value Implications**

12.1 No social value implications were identified.

## **13 Partnership Implications**

13.1 No partnership implications were identified.

## **14 Health and Wellbeing Implications**

14.1 Through effective regulation, confidence in private hire businesses can be maintained and public safety insured.

## **15 Asset Management Implications**

15.1 No asset management implications have been identified

## **16 Data Protection Implications**

16.1 No data protection implications were identified.

## **17 Consultation Implications**

17.1 The proposed change to policy has, in this instance, not been consulted on. The Licensing team usually consults with licence holders regarding relevant changes to the taxi policy—specifically, those amendments which would directly affect/apply to all existing licence holders. As the changes proposed in this report have no impact on existing licence holders, however—other than potentially providing them with alternative business opportunities—the Licensing team did not feel a formal consultation period was necessary in this instance.

## **18 Scrutiny Comments / Recommendation(s)**

18.1 There are no scrutiny comments or recommendations as this is a Licensing Committee report only.

### **Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

**Reporting Frequency : X Once only**

**List of Appendices**

Appendix 1	West Somerset area hackney carriage and private hire policy – Private Hire Vehicles
Appendix 2	Vehicle specifications (hackney carriage and private hire vehicles) under existing Taunton Deane area policy
Appendix 3	Example leaflet of proposed business
Appendix 4	General Interest Q&A
Appendix 5	Proposed wording of new conditions/amendment to be added to both West Somerset and Taunton Deane area taxi policies

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