

Notice of meeting and agenda

Licensing Sub-Committee of the Regulatory Committee

2.00 pm, Wednesday, 22 May 2013

Mandela Room, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend.

Contact

E-mail: stephen.broughton@edinburgh.gov.uk

Tel: 0131 529 4261

1. Order of business

- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

2. Declaration of interests

- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

3. Requests for Variation

- 3.1 Applications for Variation of Private Hire Car Licence – Exemption from “Pre-booked Hires Only” Door Stickers – David Revel –report by Head of Service, Community Safety (circulated).
- 3.2 Applications for Variation of Private Hire Car Licence – Exemption from “Pre-booked Hires Only” Door Stickers – Adam Pyrzyna–report by Head of Service, Community Safety (circulated).

Carol Campbell

Head of Legal, Risk and Compliance

Committee Members

Councillors Barrie (Convener), Blacklock (Vice-Convener), Aitken, Burgess, Cairns, Gardner, Bill Henderson, Heslop and Redpath.

Information about the Licensing Sub-Committee

The Licensing Sub-Committee consists of 9 Councillors and usually meets twice a month.

The Licensing Sub-Committee usually meets in the Mandela Room in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public.

Further information

If you have any questions about the agenda or meeting arrangements, please contact Stephen Broughton, Committee Services, City of Edinburgh Council, City Chambers, High Street, Edinburgh EH1 1YJ, Tel 0131 529 4261, e-mail stephen.broughton@edinburgh.gov.uk

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to www.edinburgh.gov.uk/cpol.

The views expressed in any letters of representation are not necessarily the views of the City of Edinburgh Council.

For remaining items of business likely to be considered in private, see separate agenda.

Licensing Sub-Committee of the Regulatory Committee

2pm, Wednesday, 24 April 2013

Applications for Variation of Private Hire Car Licence – Exemption from “Pre-booked Hires Only” Door Stickers

Item number	3.1
Report number	
Wards	Citywide

Links

Coalition pledges	P15 & P30
Council outcomes	C08
Single Outcome Agreement	SO1

Susan Mooney

Head of Service

Contact: Andrew Mitchell, Community Safety Manager

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 469 5822

Executive summary

Applications for Variation of Private Hire Car Licence – Exemption from “Pre-Booked Hires Only” Door Stickers

Summary

The Committee is asked to consider two requests by private hire car licence holders to vary their licence conditions so they do not have to fit the “Pre-booked Hires Only” stickers on the front doors of their private hire cars.

Recommendations

- 1 After hearing from the applicants, Committee is asked to consider whether it wishes to vary the relevant licences to allow an exemption.
- 2 It is recommended that Committee notes that it has previously refused to exempt Mr Shabbir from the requirement and that the costs of his failed appeal remain outstanding.
- 3 If the Committee agree to allow an exemption for Mr Revel and/or Mr Shabbir, it is recommended that:
 - a) the exemption would only apply to that particular vehicle whilst it is licensed by that operator and that, if the vehicle is replaced, the exemption would no longer apply.
 - a) the rear licence plate would carry the additional wording “Door Sticker Exemption”.

Measures of success

Not applicable.

Financial impact

The costs of applications for variation of private hire car licences are met entirely from application fees.

Equalities impact

None.

Sustainability impact

None.

Consultation and engagement

Not Applicable.

Background reading / external references

None.

Applications for Variation of Private Hire Car licence – Exemption from “Pre-booked Hires Only” Door Stickers

1. Background

- 1.1 On 22 May 2009, the Regulatory Committee approved a requirement that all private hire cars would have to carry self adhesive plastic oval signs on their front doors stating “Pre-booked Hires Only”.
- 1.2 On 27 January 2011, the Regulatory Committee approved a Guidance Note for use by the Licensing Sub-Committee when considering requests for exemption from this requirement. A copy of this guidance is attached in [Appendix 1](#).
- 1.3 The Sub-Committee has granted exemption in three previous cases. These applicants were granted exemption as they established that they carried out a greater amount of specialised high quality executive/tourism work throughout Scotland than general private hire car work. One operator said that 70% of his work came from this source. Both operators provided letters from a number of hotels who confirmed that they would not use the private hire car vehicle if the door stickers were attached.
- 1.4 Another licence holder, who was refused by Committee, had claimed that 30% of business was executive or wedding hires. He subsequently appealed against refusal of the request for exemption. The Sheriff considered that the Sub-Committee had not acted unreasonably when refusing the appeal. This previous case involved Mr Shabbir, who has reapplied and is dealt with by the report.

2. Main report

- 2.1 Requests for variation of their licences have been received from Stephen Shabbir and David Scott Revel.
- 2.2 Committee Members will wish to note that Mr Shabbir previously sought variation and this was refused. In addition the Committee will recall that on 4 March 2013 Committee refused a renewal application for Mr Shabbir’s private hire licence. Part of that refusal relates to a complaint that Mr Shabbir operated the vehicle as a Private Hire Car (PHC) without displaying the stickers required by the licence. At this time, until the appeal period (28 days from 4 March, i.e. 1

April 2013) has expired, the licence must be considered valid and therefore the application has to be considered. If no appeal is lodged the Committee will receive a verbal update on the status of this application at Committee.

- 2.3 Details of Mr Revel's and Mr Shabbir's applications and any supporting documents provided by them are attached in [Appendix 2](#) and [Appendix 3](#) respectively. Each application should be considered on its own merits. Previous decisions of the Committee provide context but are not binding upon the Committee.
- 2.4 Both applicants have been invited to attend Committee in support of their applications.

3. Recommendations

- 3.1 After hearing from the applicants, the Committee is asked to consider whether it wishes to vary the relevant licences to allow an exemption.
- 3.2 It is recommended that Committee notes that it has previously refused to exempt Mr Shabbir from the requirement and that the costs of his failed appeal remain outstanding.
- 3.3 If the Committee agree to allow an exemption for Mr Revel and/or Mr Shabbir, it is recommended that:
 - a) the exemption would only apply to that particular vehicle whilst it is licensed by that operator and that, if the vehicle is replaced, the exemption would no longer apply.
 - b) the rear licence plate would carry the wording "Door Sticker Exemption".

Susan Mooney

Head of Service

Links

Coalition pledges	P15 - Work with public organisations, the private sector and social enterprises to promote Edinburgh to investors. P30 – continue to maintain a sound financial position including long-term financial planning.
Council outcomes	CO8 - Edinburgh's economy creates and sustains job opportunities.
Single Outcome Agreement	SO1 - Edinburgh's economy delivers increased investment, jobs and opportunities for all.
Appendices	Appendix 1 Guidance from Regulatory Committee. Appendix 2 Details of David Scott Revel's Application. Appendix 3 Details of Stephen Shabbir's Application.

Appendix 1

Regulatory Committee Guidance/Policy Note

“Pre-booked Hires Only” Door Stickers on Private Hire Cars.

1. Private Hire Car “Pre-booked Hires Only” door stickers have been carried by the vast majority of private hire cars in Edinburgh since November 2009.
2. The stickers are important as they remind drivers and the public that these vehicles can only be pre-booked. They also assist the public in identifying genuine licensed private hire cars and reduce the risk of their getting into unlicensed vehicles.
3. The carrying of stickers is a reasonable condition of licence and failure to carry them is (1) a criminal offence and (2) a matter that could lead to suspension or removal of the operator’s licence.
4. Door stickers of a similar type are in use throughout many parts of the UK. Very few complaints have been received from operators in Edinburgh about the fitting or removal of the stickers.
5. The stickers were designed on the basis that they would not be removed from the vehicle on a regular basis. Removal of the sticker destroys a holographic mark on the sticker, thereby minimising the risk of stickers being stolen or placed on unlicensed vehicles.
6. If a licenceholder with the door sticker condition already on his licence wishes to seek exemption from carrying the stickers, he would have to make an application for variation of his licence. A person applying for the grant of a new licence or applying for renewal of their licence can ask that the sticker requirement should not apply to their licence.
7. In dealing with the foregoing matters, the following guidance is provided –
 - (a) Notwithstanding the terms of this Guidance/Policy Note, the Committee has to consider each situation on its own merits and circumstances.
 - (b) The stickers perform an important function and there should be a presumption that they will be fitted.
 - (c) If the sticker is already on a licensed vehicle already, there should be a presumption that they remain on the vehicle.
 - (d) A licensed private hire car is always a licensed vehicle and the door sticker should remain on the vehicle at all times. There should therefore be no need to remove a sticker when the vehicle is not being used as a private hire car.
 - (e) It appears that a private hire car can be driven by a person who is not a licensed taxi or private hire car driver, provided the vehicle is not being

used to carry fare paying passengers and appropriate insurance is in place. If the vehicle is being driven by a licensed driver or unlicensed driver for social or personal use, it is recommended that the vehicle should still carry the pre-booked hire door sticker at all times.

- (f) Operators should make suitable insurance and practical parking/garaging arrangements to minimise damage to their vehicle when left unattended and temporary removal of the stickers should not be required.
- (g) Non standard or magnetic door stickers should not be permitted. They could be easily removed, applied to unlicensed vehicles and/or cause a road safety hazard.
- (h) When considering requests for exemptions from operators who use vehicles for occasional weddings/funerals, the Committee should have regard to whether the vehicle is of a special type, design and condition that is normally associated with wedding/funeral use. Any operators who wish to use vehicles only for funerals or weddings have the option to operate without a private hire car licence under the exemption provided by S22(b) of the Civic Government (Scotland) Act 1982. Operators wishing to purchase expensive speciality vehicles for wedding use may have to consider using such a vehicle for weddings and operating another vehicle as a licensed private hire car for day to day use.
- (i) Requests for exemption on the suggestion that they are used for special "executive hire" should not generally be allowed, as it is considered that the stickers do not detract from the appearance of the vehicle to any material extent. Any operators who wish to use vehicles for special executive hire have the option to operate without a private hire car licence under the exemption provided by S22(c) of the Civic Government (Scotland) Act 1982. This relates to vehicles which are exclusively hired under one contract for their exclusive hire for a period not less than 24 hours.
- (j) Requests for exemption on the grounds that the placing of the stickers would invalidate or affect their bodywork/paintwork warranty should not be generally permitted. The operators should have taken this into account before they purchased the vehicle for use as a private hire car and/or they should have sought exemption before the condition was introduced in October 2009. They would therefore be regarded as having acquiesced to the fitting of the stickers as they did not formally object to the imposition of the sticker requirement.
- (k) Special circumstances have be considered for the small number of persons who did not agree to the condition being placed on their licence last October if they suggest that their bodywork/paintwork may be invalidated or affected by fitting of the stickers. These operators may have to be distinguished as they purchased their vehicles and made their financial calculations without the knowledge that the stickers would be applied.
 - (1) Operators in this small group should be required to provide evidence as to when they purchased and licensed their vehicle

- as a private hire car and the relevant bodywork/paintwork guarantee/warranty documentation;
- (2) If it can be shown by the operator that the imposition of the sticker requirement may invalidate his warranty, it is suggested that the Committee may wish to allow exemption for that vehicle for such time as it remains licensed by that operator;
 - (3) If it can be established that the operator has possibly invalidated his warranty by other actions, e.g. possibly carrying magnetic door stickers, the Committee may not wish to grant exemption;
 - (4) Some of the persons in this small group have purchased new vehicles since 7 October 2009. It is suggested that these operators should not be granted exemption as they were aware of the likely requirement to carry the stickers.
- (l) If the Committee is minded to allow exemption, it may wish to require that;
- (a) the exemption would only apply to that particular vehicle whilst it is licensed by that operator and that, if the vehicle is replaced, the exemption would no longer apply, their next vehicle would have to bear the sticker (although they could apply for an exemption for that vehicle if they wish); and
 - (b) the rear licence plate would carry the wording "Door Sticker Exemption".

Licensing Sub-Committee of the Regulatory Committee

2pm, Wednesday, 22 May 2013

Applications for Variation of Private Hire Car Licence – Exemption from “Pre-booked Hires Only” Door Stickers

Item number	3.2
Report number	
Wards	Citywide

Links

Coalition pledges	P15 & P30
Council outcomes	C08
Single Outcome Agreement	SO1

Susan Mooney

Head of Service

Contact: Andrew Mitchell, Community Safety Manager

E-mail: andrew.mitchell@edinburgh.gov.uk | Tel: 0131 469 5822

Executive summary

Applications for Variation of Private Hire Car Licence – Exemption from “Pre-Booked Hires Only” Door Stickers

Summary

The Committee is asked to consider a request by a private hire car licence holder to vary their licence conditions so they do not have to fit the “Pre-booked Hires Only” stickers on the front doors of their private hire cars.

Recommendations

1. After hearing from the applicant, the Committee is asked to consider whether it wishes to vary the relevant licence to allow an exemption.
2. If the Committee agrees to allow an exemption for Mr Pyrzyna, it is recommended that:
 - a) the exemption would only apply to that particular vehicle whilst it is licensed by that operator and that, if the vehicle is replaced, the exemption would no longer apply.
 - b) the rear licence plate would carry the additional wording “Door Sticker Exemption”.

Measures of success

Not applicable.

Financial impact

The costs of applications for variation of private hire car licences are met entirely from application fees.

Equalities impact

None.

Sustainability impact

None.

Consultation and engagement

Not applicable each application must be considered on its merits.

Background reading / external references

None.

Applications for Variation of Private Hire Car licence – Exemption from “Pre-booked Hires Only” Door Stickers

1. Background

- 1.1 On 22 May 2009, the Regulatory Committee approved a requirement that all private hire cars would have to carry self adhesive plastic oval signs on their front doors stating “Pre-booked Hires Only”.
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- 1.4 Another licenceholder, who was refused by Committee, explained that 30% of business was executive or wedding hires. He subsequently appealed against refusal of the request for exemption. The Sheriff refused the appeal as he considered that the Sub-committee had not acted unreasonably when refusing the request.

2. Main report

- 2.1 Requests for variation of his licence have been received from Mr Adam Piter Pyrzyna.
- 2.2 Mr Adam Piter Pyrzyna’s application is attached at Appendix 2 and no supporting documents have been provided. The application should be considered on its own merits. Previous decisions of the Committee provide context but are not binding upon the Committee.
- 2.3 The applicant has been invited to attend Committee in support of his application.

3. Recommendations

- 3.1 After hearing from the applicant, the Committee is asked to consider whether it wishes to vary the relevant licence to allow an exemption.
- 3.2 If the Committee agrees an exemption for Mr Pyrzyna, it is recommended that:
- a) the exemption would only apply to that particular vehicle whilst it is licensed by that operator and that, if the vehicle is replaced, the exemption would no longer apply.
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Susan Mooney

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Council outcomes	CO8 - Edinburgh’s economy creates and sustains job opportunities.
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Appendices	Appendix 1 Guidance from Regulatory Committee. Appendix 2 Details of Adam Piter Pyrzyna’s Application.

Appendix 1

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