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Taxi Licensing
 Communities & Place
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 Derby City Council
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Our Ref: DBW / AC&W Cars
 Your Ref:
 Date: 24 October 2016
 Please ask for: David Wilson

Sent by email only to:
taxi.licensing@derby.gov.uk

Dear Sir / Madam,

Consultation response of:

Albatross Cars Ltd

Chads Cars Ltd

Western Car Company Ltd

in relation to Taxi Licensing Administration and Decision Making

This letter is submitted as the joint response of Albatross Cars Ltd, Chads Cars Ltd and Western Car Company Ltd in respect of the consultation in relation to Taxi Licensing Administration and Decision Making.

These companies are the three largest private hire companies in the City.

My clients would like to thank the Council for providing a full 12 weeks for all concerned to respond to the consultation, if they wished to do so.

Save for some opening remarks concerning the Regulators' Code, which have relevance to many of my clients' comments, I shall address all matters in the chronological sequence in which they appear in the online consultation questionnaire, but will also address then go on to respond to the additional questions that appeared in the proposed consultation questionnaire.

Regulators' Code

The Council, which is known to be familiar with the Regulators' Code (BRDO/14/705), is asked to give very careful consideration to the effect the Regulators' Code has or may have on every proposal the Council is considering.

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As the Council is clearly already aware (and unfortunately many other councils are not aware), hackney carriage and private hire licensing are regulatory functions specified by order made under section 24(2) of the Legislative and Regulatory Reform Act 2006.

As a consequence, as I am sure the Council is already also aware, the Council must have regard to the Regulators' Code and, if it decides on the basis of material evidence, that a specific provision of the Code is either not applicable or outweighed by another relevant consideration, it must record that decision and the reasons for it.

Whilst I will not refer to each and every provision of the Regulators' Code, I trust that officers and Members will carefully consider each and every provision, because this is one of those documents the more you read it, the more you realise there is to be done.

Although no provision can be said to be more or less important than any other, on behalf of my clients I draw the following to your attention, in the sequence in which they appear in the Code.

Section 1: [The Council] should carry out its activities in a way that supports those [it] regulate[s] to comply and grow.

Section 1.1: [The Council] should avoid imposing unnecessary regulatory burdens though [its] regulatory activities [which term refers to the whole range of regulatory options and interventions available to the Council] and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. [The Council] should choose proportionate approaches to those [it] regulate[s], based on relevant factors, including, for example, business size and capacity.

Section 1.2: When designing and reviewing policies, operational procedures and practices, [the Council] should consider how they might support or enable economic growth for compliant businesses ... , for example, by considering how [it] can best:

- understand and minimise negative economic impacts of [its] regulatory activities;
- minimising the costs of compliance for those [it] regulate[s];
- improve confidence in compliance for those [it] regulate[s], by providing greater certainty; and
- encourage and promote compliance.

Section 2: [The Council] should provide simple and straightforward ways to engage with those [it] regulate[s] and hear their views.

- Section 2.1: [The Council] should have mechanisms in place to engage those [it] regulate[s], citizens and others to offer their views and contribute to the development of [its] policies and service standards. Before changing policies, practices or service standards, [the Council] should consider the impact on [the trade] and engage with [trade] representatives.
- Section 2.3: [The Council] should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the [Council] who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to [the trade].
- Section 2.4: [The Council] should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- Section 2.5: [The Council] should make available to [the trade], clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the [Council].
- Section 3.1: [The Council] should take an evidence based approach to determining the priority risks in [hackney carriage and private hire licensing], and should allocate resources where they would be most effective in addressing those priority risks.
- Section 3.2: [The Council] should consider risk at every stage of [its] decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- Section 3.3: [When] designing a risk assessment framework, for [its] own use or for use by others, [the Council] should have mechanisms in place to consult on the design with [the trade], and to review it regularly.
- Section 3.4: [The Council], in making [its] assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- Section 6.1: [The Council] should publish a set of clear service standards, setting out what [the trade] should expect from [the Council].

My client's comments in relation to the consultation are, as set out below, listed in the sequence in which they appear in the online questionnaire.

Officer-based Panels

My clients do not support this proposal.

Whether such a panel would genuinely be independent or not, the perception is bound to be one that officers would be biased and the Council should not allow its good reputation to be damaged by transferring a function exercised by Members sitting as a Licensing Sub-committee to officers.

If this were to be pursued, there are concerns as to the practicalities of separating the functions of those officers who will prepare and present reports to the Officer Panel and those who would sit on such a panel.

It is doubted that there are sufficient numbers of officers in Taxi Licensing to be able to fulfil these independent functions and, therefore, Officer Panels may well have to draw on the assistance of sufficiently senior officers with experience in quasi-judicial decision-making to be able to form Officer Panels. Do senior officers of other services really have the time to provide their time to sit on taxi licensing Officer Panels?

Even if senior officers do have the time (which is seriously doubted) to sit on Officer Panels, the costs of administering taxi licensing Officer Panels may well be greater than the cost of continuing to have applications and disciplinary matters determined by the long-established, independent and well respected Licensing Sub-committees.

In all the circumstances, Members are respectfully asked not to relinquish their powers and to continue to make the important decisions it makes in respect of applications and disciplinary matters.

Derby Points Based System

My clients do not support this proposal.

From the wording of the question, namely that the proposal is based on a belief, it would appear that the Council does not have any evidence that would support the introduction of a points based system.

Whilst it is acknowledged that points systems have been used before – and were held to be lawful in *R (on the application of Singh) v Cardiff City Council* [2012] EWHC 1982 (Admin), if applied correctly and allowing for the exercise of discretion – they were used in respect of minor infringements by licensed drivers and have not been used to found the sole basis for the determination of new applications.

Whilst the policy document could be described as being comprehensive, it can equally be described as being too long and complex at 16 pages.

In contrast, Uttlesford District Council has a policy that achieves very much the same in about only one page. Having been inspired by the Uttlesford District Council policy, my clients suggest that the policy should be to the following effect:

- Whilst every case will be considered on its own merits, the following sets out the approach the Council will usually take.
- In respect of an application for the initial grant of a licence, it is for the applicant to satisfy the Council on the balance of probability that he / she is a fit and proper person to be granted a licence. Once a person is licensed, they shall be presumed to remain a fit and proper person to be licensed, unless the Council is satisfied on the balance of probability that he / she is no longer a fit and proper person as a result of a conviction, caution, complaint or other non-convictional information.

[The above reflects the legal position following *Kaivanpor v Director of Public Prosecutions* [2015] EWHC 4127 (Admin), a copy of which can be provided on request.]

- Anyone with a conviction or caution for a sexual offence, who is on the sex offender register or in respect of whom non-convictional information or a complaint is made of a sexual nature, will be referred to the Licensing Sub-committee for consideration, but will usually be refused a licence.
- Anyone with a conviction or caution for being concerned in drug dealing or drug cultivation will be referred to the Licensing Sub-committee for consideration, but will usually be refused a licence.
- A licence will not be granted to anyone who has a live criminal conviction, ie a conviction for a criminal (not motoring) offence that has not become spent by virtue of the Rehabilitation of Offenders Act 1974 (as amended) and, in that regard, it should be noted that some sentences never become spent.
- Anyone who has 10 or more current penalty points on their driving licence or who received 4 or more current penalty points for a single offence (ie are live for the purposes only of totting-up) will be referred to the Licensing Sub-committee for consideration.
- Anyone disqualified from driving under the totting-up provisions will be licensed upon the restoration of their driving licence.
- Anyone disqualified for driving under any other circumstances will not be licensed until their driving licence has been restored to them for three times the period for which they were disqualified. By way of examples: (i) If disqualified for 14 days, a licence will not be granted (or would be suspended) for 42 days after the restoration of their driving licence; and (ii) If disqualified for 3 years as a result of a second conviction for driving with excess alcohol within a period of 10 years, a licence will not be granted for 9 years after the restoration of their driving (or their licence would be revoked by the Council).

In respect of that part of the penalty points policy that relates to complaints about drivers, vehicles and operators, my clients recognise the rationale for such a system and do not oppose it in principle.

However, my clients do have concerns about the numbers of points that might be awarded in certain circumstances, the consequences of receiving points and the need to provide an internal appeals process to comply with section 2.3 of the Regulators' Code.

If the Council decides to proceed to implement the Derby Points Based System, the Council is asked to comply with its duty to consult on the detail of that system by holding a workshop with Members, officers and stakeholders (which might hopefully include members of the public) in the hope this will better enable the Council to decide on the points or range of points that might be imposed in respect of each of the identified instances of wrongdoing.

Subject to determining such matters, my clients provisionally suggest that the consequences of receiving Derby points or accruing certain numbers of them should be simplified, possibly as follows:

- 6 Derby points in 12 months = 7 day suspension
- 9 Derby points in 18 months = 14 day suspension
- 12 Derby points in 24 months = 21 day suspension
- 13 Derby points in 24 months = refer to Licensing Sub-committee.

Minimum Application Criteria

My clients support this proposal in principle, but cannot support it in its entirety, because it appears in part to be unlawful.

Rather than address some elements of the criteria here, I shall comment on them when responding to the later consultation questions in relation to Group 2 medical standards, DVSA driving tests, safeguarding training, basic skills tests, DBS checks and good conduct certificates.

That having been said, the criteria should include the DVLA driving licence mandate and also make provision to accept a DBS certificate in respect of which the applicant / driver has subscribed to the update service.

My clients appreciate that charging two fees, one being an application fee and the other being a licence fee that is only payable if a licence is granted, has much to commend it, but there is a question as to whether such an approach is lawful.

There is no case law on this point, although the decision of the Court of Appeal in *Liverpool City Council v Kelly* [2003] EWCA Civ 197 in relation to charging separate fees for vehicle tests to vehicle licences may give some insight as to how the courts might approach the matter.

Although it would seem that Liverpool City Council's best argument might have been one they did not advance, namely that the vehicle test fee was not one charged as part of the licence fee, but as a separate charge the Council was entitled to charge in

relation to a discretionary service, it should be noted that power was only introduced by the Local Government Act 2003, which was not enacted until 18 September 2003 and the appeal was heard on 20 February 2003.

In the circumstances, whilst there is a lack of certainty, I on behalf of my clients accept that the proposal is probably lawful and that the courts would probably reach that conclusion.

It should, however, be noted that the Council cannot charge a fee for a discretionary service if, as in this case, the Council appears to be doing no more than to fulfil its statutory function.

If it has not already done so, the Council might nonetheless wish to take external legal advice, because if its proposed approach turns out to be unlawful, the Council might well risk claims for restitution in respect of unlawfully charged fees.

If the Council proceeds with its proposal to charge an application fee and a separate licence fee, it is suggested that the application fee should relate to all stages of the process up to determination of the application.

In those circumstances, if an application proceeds to the Licensing Sub-committee and is then refused a licence, the applicant does pay towards all the costs of processing and determining their application. If only a licence fee is payable on the grant of a licence, those applicants whose applications are refused by the Licensing Sub-committee pay nothing, but have taken up many of the Council's resources.

It is not accepted that the Council can reject as incomplete an application. This is an issue that I have encountered with other authorities and upon which advice has been obtained from Gerald Gouriet QC. Our view is that an application is merely the application form, because everything else the Council has the power to request in respect of an application under section 57 of the Local Government (Miscellaneous Provisions) Act 1976.

Therefore, rather than rejecting incomplete applications, the Council might utilise the minimum criteria as the minimum level of information the Council requires to determine an application. If an application remains undetermined because all the required information is not provided to the Council, the Council will have received the application fee and avoids having to determine the application. If a licence is refused, the Council will still have been paid the application fee. If a licence is granted, the Council will have been paid the application fee and the licence fee.

As the Council appreciates, having recently accepted that a driver was legally entitled to drive pending the renewal of his licence after the expiry of his previous licence, the situation is not as straightforward when dealing with renewal application made before the expiry of the current licence.

In this regard, if the Council is not furnished with all the required information by the date of expiry of the current licence, the Council might delegate powers to officers to enable them to refuse the renewal of such licences. A driver would, of course, retain the right to exercise the rights of their expired licence for the 21 days in which they have a right to appeal and, if they were to appeal, until the determination of their

appeal, but there is nothing the Council can do to prevent the operation of law. The Council can, however, minimise the period a driver can exercise these rights by avoiding a delay in determination by a Licensing Sub-committee.

Group 2 Medical Standards

My clients support this proposal.

On behalf of my clients, I respectfully suggest the Council does not create its own version of the DVLA Group 2 medical form, but adopts that and supplements it with a single page form of its own:

- Explaining that the Council has adopted the DVLA Group 2 medical standards for hackney carriage and private hire drivers.
- Refers the medical practitioner to the current guidance for medical practitioners.
- Asks the medical practitioner to confirm that they have, at least, had access to the driver's electronic medical records.
- Requires the medical practitioner to simply state whether the driver meets or does not meet the DVLA Group 2 medical standards.

Drivers who already hold a HGC or PCV / PSV vocational driving licence, which is also subject to the DVLA Group 2 medical standards, should be exempt from being required to have a further medical undertaken.

Driver & Vehicle Standards Agency Test (new applicants only)

My clients do not support this proposal, because the test is no longer available.

As the Council will probably already appreciate, shortly after it commenced its consultation, the DVSA announced that it would not be providing the practical driving assessment for taxi and private hire drivers after 31 December 2016.

If the Council considers adopting any other test, pursuant to its obligations under the Regulators' Code, the Council is asked to consult upon the potential adoption of that test, when details of the standard, availability and costs are known.

Driver & Vehicle Standards Agency Test (existing licence holders)

My clients do not support this proposal, because the test is no longer available.

For the reason stated above, this proposal cannot be pursued either at this time, but should the Council consider adopting any other test, the Council is asked to consult upon it, again for the reasons given above.

Reduce to 12 months the timescale for obtaining the NVQ qualification

My clients support the requirement for drivers to obtain the NVQ qualification, but do not support the proposal to reduce the timescale in which it is to be obtained.

Currently those entering the trade have three years in which to obtain the NVQ and, as far as my clients are aware, there is no good reason to change the timescale.

Indeed, it is probably more appropriate for the timescale to be three years, because that is now the standard duration for which a driver's licence will be granted. In the circumstances, if a driver has not obtained the NVQ qualification by the time of the renewal of their driver's licence after three years, the Council is best placed to deal with it at that time, rather than after only one year.

In the combined experience of my clients, they are agreed that those who enter the trade need time to develop their on-the-job training before they fully benefit from the academic and practical training they receive when they undertake the NVQ course. They also need time to save to pay for the course and to find a course provider.

Unfortunately, because the Council has mandated that the qualification is required, not only do providers know that they have a captive market (and may charge more than they might have done otherwise), but they cannot access external-funding streams either.

Unless the Council has an evidenced justification to propose reducing the timescale (and it being noted no such justification has been advanced), the Regulators' Code would prevent the Council from making such a change.

Safeguarding Training

My clients support this proposal.

As the Council cannot attach a condition to a private hire driver's licence mid-term and cannot attach a condition to a hackney carriage driver's licence, it is suggested that the Council introduce safeguarding training as soon as possible, but makes the courses initially available to drivers free at the point of delivery.

If the training is provided free of charge at the point of delivery, with a charge to be introduced for the course in the future, current drivers will be incentivised into attending the course now, rather than having to pay to attend the course in the future in order to meet the requirements to renew their licence.

Basic Skills Test (new applicants)

My clients support this proposal.

However, my clients would also advocate retention of the topographical test, which is not referred to within the narrative of the proposed elements of the test, but would urge the Council to either:

- simplify the test or
- provide training materials to candidates with all the information on which they may be tested.

Basic Skills Test (existing licence holders)

My clients do not support this proposal.

Anyone applying to renew their driver's licence will, of course, already have obtained the NVQ qualification. As a general rule, NVQ course providers require course delegates to undertake a basic skills test in order to satisfy themselves that the delegate will be able to undertake the necessary study required.

In all the circumstances, anyone who has obtained the NVQ Level 2 qualification can reasonably be regarded as having already demonstrated that they meet or exceed BSKB Level 1 Functional Skills assessment.

If contrary to the assumption that we suggest must reasonably be inferred, complaints are received about a driver, it might well be reasonable to require such driver to take the test as a means of expanding and / or testing their knowledge.

Revision of Private Hire Operator Licence Condition 11(a)(xii)

My clients do not support this proposal.

For the reasons that have already been set out in a court proceedings between one of my clients and the Council, my clients would urge the Council not modify the current Condition 11(a)(xii).

In respect of all methods of electronic booking (text, email, IVR telephone, website, smartphone app and any other such methods whether they exist now or not), my clients respectfully suggest that the following provisions should apply:

- In order to accept electronic bookings, the private hire operator must use a computerised booking and dispatch system that includes GPS vehicle tracking for the whole period a vehicle is logged onto the operator's system and:
 - The job record shall record the location of the customer's actual destination using the GPS vehicle tracking data; and
 - The operator shall retain the GPS vehicle tracking data for all vehicles operated for at least 12 months.

My clients hope that the Council will apply to all private hire operators the outcome from the current court case, whether that outcome be reached between the parties or determined by the court.

Online Renewals for Driver Licences

My clients support this proposal.

However, my clients are concerned to learn how online applications might be dealt with when a driver will be required to submit a new medical certificate and may be required to submit a new DBS certificate if they have, for example, allowed their update service subscription to lapse.

MOT for Vehicles

My clients support this proposal.

Whilst the majority of the reasons are known to the Council and appear to have been factors that prompted the Council to make this proposal in the first place, my clients take this opportunity to confirm that they consider the following to be the benefits of issuing a MOT certificate and a Vehicle Compliance Sheet (instead of a Certificate of Compliance):

- As vehicles that are issued a Certificate of Compliance are not put onto the online MOT Vehicle Register, such vehicles are at risk of being stopped by the police, because they are identified by police ANPR (Automatic Number Plate Recognition) equipment as not being MOTd.
- As vehicles that are issued a Certificate of Compliance are not put onto the online MOT Vehicle Register, such vehicles cannot be taxed online.
- As vehicles that are issued a Certificate of Compliance are not put onto the online MOT Vehicle Register, such vehicles cannot be insured online, if the insurer undertakes an online check of the MOT Vehicle Register.

Disclosure & Barring Service (DBS) to be administered by a third party

My clients support this proposal.

Not only will such a change to procedure reduce the administrative burden on the Licensing Team, which it is hoped will result in a consequential reduction in licence fee or, at the very least, avoid a fee increase, but will also allow applicants to use third parties that can provide a quicker service by virtue of using the online DBS service.

Dual Licences

My clients support this proposal and urge the Council to extend this to all drivers.

If, as proposed in response to the question relating to the introduction of a Basic Skills Test, the topographical test continued to apply to both hackney carriage drivers

and private hire drivers and all other criteria were applied to both licence types, every driver could have, what is commonly referred to as a dual licence.

Currently, private hire drivers are subjected to modern conditions, because conditions can be attached to their licences, and hackney carriage drivers are subject only to byelaws, which are woefully inadequate, because they are old and out of date.

If every driver were to be granted both a hackney carriage driver's licence and a private hire driver's licence with a single identification badge, which gives rise to the use of the terms 'dual licence', all drivers would be subject to modern conditions of licence.

Local authorities that have adopted this approach in recent years include North Tyneside Council, which has found that the majority of all drivers opt for the dual licence with only a few hackney carriage drivers choosing to be issued with only a hackney carriage driver's licence.

On the basis that the process for issuing a hackney carriage driver's licence, a private hire driver's licence or a dual licence with both licences and a single identification badge is the same, all licences are available for the same cost, which also encourages most to apply for the dual licence.

DVLA Driving Licence Mandate

My clients support this proposal.

But this does again raise an issue as to how this would be managed if the Council proceeds, as it proposes (with the support of my clients) to introduce online driver licence renewals.

The Council is encouraged to opt to undertake DVLA driving licence checks itself, rather than using a third party provider, because, even taking into account the set up costs, it is significantly cheaper.

Good Conduct Certificate

My clients support this proposal, but are concerned that it might currently be expressed in discriminatory terms and seek clarification as to the circumstances in which a certificate would be required.

The proposal focuses on checking applicants "who come from overseas", which discriminates against anyone who is not a British citizen by birth, which is currently illegal as it means that those from Europe who are entitled to work in the UK are required to undergo a further check.

It is suggested that this proposal would not be discriminatory if it were to apply to any new applicant who had been resident in any other country for a single minimum

period of at least six months before the date of their application and since the grant of their last licence for those applying for the renewal of their licence.

Dress Code

My clients support this proposal in principle.

Without knowing the details of the proposed dress code, my clients cannot give their unconditional support, but as long as the proposal is reasonable and does not discriminate against drivers, my clients would hope to be able to give their unreserved support in due course.

Vehicle Ownership

My clients do not support this proposal.

That having been said, my clients recognise the problem the Council is seeking to address and acknowledges that it would be desirable if the Council could do as it proposes, but unfortunately for all, section 49 of the Local Government (Miscellaneous Provisions) Act 1976 only requires the licence holder to notify the Council of their disposal of the vehicle.

It is suggested that the problem might be addressed, at least in part, by the Council creating a form that is to be completed by the licence holder and the new owner.

It is anticipated the problems the Council experiences arise when the new owner seeks to transfer the licence into their name and does not have proof, in one of the forms the Council proposes to require. In such circumstances, it is suggested the Council refuses to transfer the licence until such time as it receives notification or confirmation of the transfer from the licence holder. If this is not readily forthcoming, the Council can request information in writing of the licence holder and, as well as potentially prosecuting for failing to notify of the transfer pursuant to section 49, may also prosecute the licence holder for obstruction under section 73 of the 1976 Act.

Minibuses

My clients agree that all licensed vehicles should have to meet minimum dimension standards, but question whether the current dimensions are appropriate.

My clients do not agree that modifications should be allowed in relation to seating.

My clients agree that modifications to interior lighting should be allowed.

My clients agree that all modified vehicles should be subject to a VIVA (Voluntary Individual vehicle Assessment).

As stated above, my clients question whether all current dimensions are appropriate and asks that the Council undertake a review of those dimensions, because it may

be that no dimensions are necessary, as long as vehicles meet the minimum requirements for M1 ECWVTA (European Community Whole Vehicle Type Approval).

Modifications should not be required to seating, because such changes may result in seats and seat belts not being appropriately secured to structural parts of the vehicle and / or being fixed using nuts and bolts of appropriate tensile strength.

Whilst it is appreciated that such matters would be checked as part of a VIVA check by the DVSA (Driver & Vehicle Services Agency), such changes should not be allowed to a licensed vehicle, because it is difficult, if not impossible, for the Council to ensure that such vehicles are safe.

For example, even if the proprietor were required to notify the Council of such changes and did so, the Council seems to lack the ability to require the vehicle to be subjected to a VIVA during the period of the licence. Even if an authorised officer were to inspect the vehicle to satisfy himself that seats had been moved and was not satisfied as to the fitness of the vehicle, he could suspend it under section 68 of the 1976 Act, but I am not sure he could require it to be presented for a VIVA test, especially as there appears not to be a DVSA testing station within the City.

Unless the Council is sure as to how it might legally ensure a vehicle modified during the course of the licence to be subject to a VIVA, the Council is encouraged not to permit seating modifications.

In relation to changes to internal lighting, as long as permission is applied for and obtained from the Council before making changes, as required by the current conditions of licence, such changes should not give rise to any problems.

If changes are made to internal lighting without permission, it will be a matter for the Council to decide whether the licence should be suspended by the Council under section 60 of the 1976 Act or an authorised officer under section 68 of the said Act.

Vehicles with structural, seating or safety modifications should be required to undergo a VIVA, because it is the only way anyone can be sure a vehicle remains safe after any such modification.

Hybrid Vehicles

My clients do not agree that every private hire vehicle should have a minimum of 300 litres of luggage space.

My clients agree that the need for luggage space can be decided at the time of booking.

As stated above in relation to the dimensions for minibus seating, my clients urge the Council to abandon its own standards and either rely instead on the M1 ECWVTA or adopt a new standard after appropriate consultation on what that standard should be.

One of the key functions of a private hire operator is matching vehicles to customers for their travel needs. Even though there is currently a requirements for a private hire vehicle to have a minimum of 300 litres of luggage space, if a customer is travelling to an airport as part of a group with lots of luggage, a vehicle meeting only the minimum standard will not be adequate and, as a matter of course, a private hire operator will arrange to either send an estate car, MPV or minibus.

In the circumstances, removing the minimum requirement for luggage space will not adversely affect the provision of vehicles to customers that are suitable for their needs. After all, if a private hire operator were to send an unsuitable vehicle to a customer making an airport transfer, the customer might miss their flight and have a substantial claim to make against the private hire operator.

My clients acknowledge that there is a need for them to be able to meet the differing needs of their customers: some will be travelling alone and want to use a low or non-polluting vehicle whereas others might be concerned to have an executive type vehicle or a minibus. The Council is encouraged to modify its standards in order to allow a wider variety of vehicles, as recommended by the Department for Transport Best Practice Guidance (2010).

Air Quality

My clients are unable to say whether they would be able to upgrade vehicles if a CAZ were introduced which applied to licensed vehicles.

My clients do not believe it would be helpful to have a progressive licensing policy (if what that is meant to mean has been correctly understood).

If a CAZ is to be introduced in Derby, it is imperative that the hackney carriage and private hire trades are made aware of this as soon as possible, given the longest lead in time possible and told what emission standards are going to qualify them from exemption from the CAZ charge.

If the Council were to make incremental changes, the effect could be to require proprietors to change vehicles to one standard, only to later discover they needed to change their vehicle again to meet the next standard.

If a CAZ has to be introduced by 2020, but the Council decides to introduce this from 2019 and, as a consequence, vehicles have to be Euro 6 diesel or Euro 4 petrol to qualify for exemption from the CAZ charge, the sooner this is known by the Licensing Team and notified to the trade, with appropriate changes made to vehicle standards the better.

That is not to say the trade can afford to make such changes, because no one can see into the future, especially as we now face Brexit as well as the longstanding austerity that has now affected our country for many years.

In addition to the above, my clients also take this opportunity to comment on the three other proposals that were contained in Appendix 4 to the Officer Report presented to the

Meeting of Licensing Committee on 14 July 2016, which from the minutes of that meeting appear not to have been withdrawn from the consultation.

Minimum age to be licensed as a driver

My clients support the proposal to remove the current minimum age requirement of 21.

As the Council acknowledged, there is no statutory minimum age limit, although to be licensed a person must have held a full driving licence for 12 months, which effectively means the minimum statutory age is 18.

It is though that the retention of the current age restriction of 21 is to unlawfully discriminate against a person based merely on their age.

Even if a person were able to secure a driver's licence under the age of 21 it is highly likely that they would not be able to afford the insurance premium an insurer would be likely to charge. In the circumstances, the trade would encourage the Licensing Team to urge anyone under 21 to ascertain how much they would be charged for insurance, because it may be that they would not be able to afford the premium and that it would be a pointless exercise for them to apply for their licence at that time.

Right to work

My clients agree that the Council should check an applicant's right to work in the UK.

It is anticipated that this question may not have been included in the online consultation, because this is to become a statutory requirement by virtue of the Immigration Act 2016, section 37 and Schedule 5.

Staffing proposals

My clients accept that, subject to statutory limitations, the costs of the licensing regime fall upon them by way of the licence fees the Council charges.

That having been said, as far as my clients are concerned, the proposals should result in greater efficiencies and not require any further staff or result in any increase to the licence fees they currently pay.

Indeed, my clients would hope that some of these changes might even result in fees being reduced.

If officers need clarification of anything herein or would like to discuss anything raised by this response on behalf of Albatross Cars Ltd, Chads Cars Ltd and Western Car Company Ltd, please do not hesitate to contact me.

My clients and I look forward to hearing how the Council intends to proceed with these proposals in due course.

Yours faithfully,

A handwritten signature in dark ink, reading "David B. Wilson". The signature is written in a cursive style with a large 'D' and 'W'.

David B Wilson

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